

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





76 1436

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

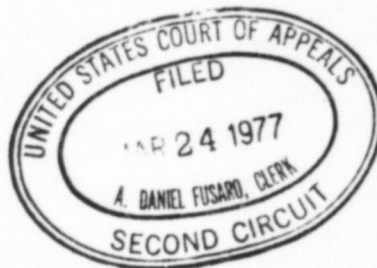
Plaintiff-Appellee,

-against-

JERRY WINSTON, BROOME  
COUNTY AVIATION, INC.,  
COMMUTER AIRLINES, INC.,  
and THEODORE (TED) BELL,

Defendants-Appellants.

ON APPEAL FROM THE JUDGMENT OF THE  
UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF NEW YORK



APPENDIX - VOLUME 4

Pages 1000 to 1323

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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

---

3 THE UNITED STATES OF AMERICA

4 vs.

75-CR-83

5 JERRY WINSTON, BROOME COUNTY  
6 AVIATION, INC., COMMUTER AIRLINES,  
INC., and THEODORE (TED) BELL,

7 Defendants.

---

8  
9 CONTINUED TRIAL PROCEEDINGS in the  
10 above-entitled matter held on the 9th, 10th and 11th day  
11 of June, 1976 before Hon. Lloyd F. Mac Mahon, United States  
12 District Judge, at the Federal Building, Auburn, New York.

13  
14 APPEARANCES:

15 HON. JAMES M. SULLIVAN, JR.,  
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21 Commuter Airlines, Inc.

22 PAUL SHANAHAN, ESQ.,  
23 Syracuse, New York,  
Attorney for Defendant Bell.

24 VII  
25



1                                    June 9th, 1976

2                                    THE COURT: All right, proceed.

3                                    MR. SHANAHAN: I call Mr. Bell.

4                                    THEODORE (TED) BELL,

5                                    defendant, having been called as a witness in his  
6                                    own behalf, was duly sworn according to law and  
7                                    testified as follows:

8                                    DIRECT EXAMINATION

9                                    BY MR. SHANAHAN:

10                                  Q        Mr. Bell, you are a defendant in this case, are you?

11                                  A        Yes, I am.

12                                  Q        And where do you live?

13                                  A        I live in Endicott, New York.

14                                  Q        Are you a married man?

15                                  A        Yes, I am.

16                                  Q        Do you have a family?

17                                  A        Yes, I have two sons.

18                                  Q        And what are their ages?

19                                  A        16 and 17.

20                                  Q        Now, you are presently employed by Broome County  
21                                    Aviation?

22                                  A        Yes, I am.

23                                  Q        And your position with that company at the present  
24                                    time is what?

25                                  A        I am the chief pilot.

1 Q And you have held the position of chief pilot with  
2 that concern since when?

3 A Since 1962.

4 Q And you have been an employee of Broome County  
5 Aviation for how long?

6 A It will be 17 years.

7 Q So your employment with that concern began in 1959,  
8 would that be correct?

9 A That would be correct.

10 Q And at the beginning of your employment, 1959, and  
11 until you became chief pilot in 1962, what was your  
12 position and what was your work with the company?

13 A I was a charter pilot and flight instructor.

14 Q And the company at the time that you joined it, 1959,  
15 through that period until 1962, consisted of what?

16 A Well, at the beginning it was a very small concern,  
17 a total of four employees and two small airplanes.

18 Q And what was the nature of the business at that time?

19 A We did demand charter and we had a small flying school.

20 Q And your work with reference to those operations was  
21 what?

22 A I instructed in the flying school and I flew charter  
23 on a demand basis as it was --

24 Q And at that time were there any other pilots with  
25 Broome County Aviation other than yourself?

1 A Jerry Winston and myself were the only pilots in the  
2 firm at the time.

3 Q Now, you have indicated to us that in 1962 you became  
4 chief pilot?

5 A Yes, sir.

6 Q And what was the company situation at that time?

7 A We had grown somewhat by that time. We had probably  
8 five aircraft and a total of ten employees, I would  
9 think.

10 Q And in connection with the aircraft that was in the  
11 possession of the company at that time, were some  
12 of the planes multiengine planes?

13 A Yes, they were. We had gotten into the multiengine  
14 operations at that time.

15 Q And had the number of employees or the number of  
16 people working for the corporation at that time  
17 increased?

18 A Yes, it had. We had some ten, twelve employees, I  
19 believe.

20 Q And the operation of the company at that point was  
21 primarily what?

22 A We were doing primarily corporate contract and charter  
23 work. We were flying for some Asian corporations  
24 in an executive flying time situation, and then  
25 charter as it arose.



1 Q Was the flying school still at that point in operation?

2 A Yes, it was, we still had the flying school in opera-  
3 tion.

4 Q All right. Now, would you explain to us, please,  
5 just what, in a general way, your duties are as  
6 chief pilot?

7 A Well, normally, the chief pilot is responsible for  
8 the operational part of the flight department of  
9 the company. He sees to logistics and coordination  
10 and manpower and things of that nature.

11 Q And as part of your work as chief pilot, do you have  
12 any duties in connection with the hiring of crews?

13 A Yes, normally, I would screen and interview, select  
14 and hire crews.

15 Q And after crews were hired, did you have any duties  
16 in connection with the training of those crews?

17 A Yes, normally the training would either be done by  
18 me or under my direct supervision by somebody that I  
19 might designate for that purpose.

20 Q And is it also part of your duties as chief pilot to  
21 see to it that Federal Aviation Agency requirements  
22 are met by the company and by its equipment and  
23 crews?

24 A Yes, that's correct.

25 Q Do you also have anything to do with the matter of

1 observing the terms of various contracts that the  
2 company might have with corporations in connection  
3 with charter service?

4 A Yes, there are many corporations who set forth their  
5 own specifications which are in excess of oftentimes  
6 what may be required by the Federal Aviation Agency,  
7 and it is necessary to comply with those as well as  
8 the basic requirements of the Federal Aviation.

9 Q And what we are talking about up to this point,  
10 would that be in a general way the nature of your  
11 duties as a chief pilot?

12 A Yes, it would.

13 Q And do you have, in that connection, direction over  
14 the various people, pilots and copilots that are  
15 flying the aircraft of the company?

16 A Yes, I do.

17 THE COURT: You supervise them  
18 also?

19 THE WITNESS: Yes, sir.

20 THE COURT: And do you have any-  
21 thing to do with hiring and firing?

22 THE WITNESS: I screen and hire  
23 them with the concurrence of my superior.

24 THE COURT: But do you also have  
25 power to discharge?



1 THE WITNESS: Well, not without  
2 the concurrence of my superior.

3 THE COURT: But you can initiate  
4 a proceeding to discharge somebody?

5 THE WITNESS: I can make recommenda-  
6 tions.

BY MR. SHANAHAN:

8 Q Now, Mr. Bell, so far as your own experience is  
9 concerned, you have been flying aircraft for how  
10 many years?

11 A Well, I first began to fly in 1947.

12 THE COURT: I'm sorry, Mr.  
13 Shanahan. Do you have any stock ownership in the  
14 company?

15 THE WITNESS: No, sir, I don't.

16 THE COURT: You are strictly an  
17 employee?

18 THE WITNESS: Yes, sir.

19 BY MR. SHANAHAN:

20 Q You have how much flight time at the present time?

21 A Just under 15,000 hours.

22 Q And do you hold various ratings that have been  
23 issued by the Federal Aviation Agency?

24 A Yes, I hold the Airline Transport Pilot's Certificate.  
25 I have the --

1 Q Pardon me just a minute. Now, the Airline Transporta-  
2 tion Certificate, would you tell us first of all,  
3 briefly, what it is.

4 A The Airline Transportation Certificate is really,  
5 I suppose, the highest single grade rating that the  
6 FAA issues. It is issued upon completion -- it is  
7 generally, really, the total experience requirement  
8 is 1500 hours, which is not a lot of time, but certain  
9 other conditions must be met.

10 Q And you have had this Airline Transport Certificate  
11 or rating since when?

12 A Since 1958.

13 Q All right. Do you also have a commercial rating or  
14 certificate?

15 A The Airline Transport is the commercial certificate.  
16 In essence, it becomes your basic pilot's certificate.

17 Q I see. So that you held this commercial rating  
18 prior to the rating as an airline transport rating,  
19 would that be so?

20 A That would be true, yes, sir.

21 Q All right. And you received the commercial rating  
22 and held it since when?

23 A Since 1956.

24 Q Now, in addition to that, you also hold a Flight  
25 Instructor's Certificate?



1 A Yes, I do.

2 Q And you have held that rating since when?

3 A Since 1956 also.

4 Q And is that rating or certificate still current?

5 A Yes, it is maintained. I maintain it in a current  
6 state.

7 Q And then is there also an Advanced Ground Instructor's  
8 Certificate?

9 A Yes, I hold an Advanced Ground Instructor's Certifi-  
10 cate.

11 Q And you have held that certificate or rating since  
12 when?

13 A Since 1962, approximately.

14 Q And are you also concerned in connection with your  
15 work with the evaluation of pilot efficiency?

16 A Yes, sir, I currently am.

17 Q And that has been a part of your work since when,  
18 or approximately when?

19 A Since 1965 on a regular basis.

20 Q And in connection with the operation of the flight  
21 school that you have mentioned previously, did you  
22 give tests to pilots, that is, prospective pilots  
23 for pilot certificates?

24 A Yes, I did, upon graduation, I gave a flight test.

25 Q And also ratings, would that be so?

1 A Yes, they would be granted a license based on the  
2 flight test results.

3 Q Now, this flight school we talked about, is that  
4 still in existence as part of the operation of  
5 Broome County Airlines?

6 A No, it isn't, it has been sold.

7 Q And when did the company terminate that phase of  
8 its business?

9 A Within the last couple years. I don't recall the  
10 exact date.

11 Q Now, were you also designated as a check pilot under  
12 what is known as Regulation 135 of the Federal  
13 Aviation Regulations?

14 A Yes, I was.

15 Q And that is a designation, as I understand it, by  
16 the Federal Aviation Agency, is it?

17 A Yes, it is, it is at the request of the company by  
18 the Federal Aviation Agency.

19 And by the way, does the Federal Aviation Agency  
20 have an office in this area of New York State?

21 A Their supervising flight standards district office  
22 for this area is in Rochester, New York.

23 Q And you have been designated as a check pilot under  
24 that regulation since when or approximately when?

25 A Approximately 1967.



1 Q And you have held that designation continuously until  
2 the present time?

3 A Yes, I have.

4 Q Now, as a check pilot, do you operate under the  
5 supervision of the Federal Aviation Agency?

6 A Yes, I do.

7 Q And would you tell us what you do, in a general way,  
8 as a check pilot?

9 A Well, normally you conduct the required proficiency  
10 examinations for a pilot operating under FAR 135.  
11 There are several of these in several different  
12 categories of these. You assert that he is main-  
13 taining his proficiency level up to the standards  
14 of his certification and you look for problem areas  
15 in the way of bad habit patterns and work to rectify  
16 those.

17 Q Now, I think it has been testified to here, but  
18 captains are required to undergo a check flight  
19 every six months, would that be right?

20 A That would be correct, every six months.

21 Q And copilots are required also to have check flights  
22 once a year?

23 A Yes, once a year.

24 Q And would your administration of these check flights  
25 be check flights for employees, captains or copilots

1 of commuter airlines or Broome County Aviation?

2 A Yes, it is.

3 Q Now, is there some supervision of those check flights  
4 by the Federal Aviation Agency?

5 A Yes, they maintain a surveillance on the conduct  
6 of check pilots designated.

7 Q And is there some type of a ratio of the number of  
8 check flights that are administered directly by the  
9 Federal Aviation Agency personnel?

10 A Well, it is their policy to either directly supervise  
11 the administration of or to conduct themselves, and  
12 it is at their option, one in every six months.

13 Q I see. So that for every six check flights that you  
14 would administer, the Federal Aviation Agency either  
15 administers or is present to observe the sixth one,  
16 would that be --

17 A That is their --

18 Q Now, in connection with the check flights, would  
19 you describe again in a general way for us what is  
20 done in the conduct of the check flight first with  
21 captains?

22 A Well, normally on a captain check, the man report  
23 in and he is given certain written material to  
24 review to brush up or to verify that he is maintaining  
25 a currency on certain written material. It may be



1 covered orally. That is somewhat of an optional  
2 provision. We go into a physical examination of  
3 the airplane to see that he can determine that it  
4 is airworthy and acceptable for flight. We conduct  
5 a flight within certain prescribed items that are  
6 required in every check. If we find a problem area,  
7 we might review that and attempt to correct any  
8 habit pattern deficiency that we see.

9 Q And in connection with the administering such a  
10 check flight, do you have some sort of a paper or  
11 record where you keep track of the proficiency of  
12 the captain in the various procedures that he is  
13 required to carry out?

14 A Yes, the form provided by FAA sets forth a minimum  
15 required items to be covered.

16 Q And as you proceed in the course of the check flight,  
17 do you grade the various operations by the pilot  
18 or the captain on each of these procedures separately?

19 A Yes, you normally list the maneuver, whether it was  
20 satisfactorily performed or not.

21 Q Now, is the captain's check the six-month check,  
22 a more extensive check than would be administered  
23 annually to copilots?

24 A Yes, there are more required items to be covered.

25 Q Now, when a pilot check is complete, is there some

1 record made of that?

2 A Yes, the form or forms which are executed you men-  
3 tioned earlier, and there is a certificate executed.

4 Q And is a copy or a duplicate original of that  
5 certificate filed with the Federal Aviation Agency?

6 A Yes, it is.

7 Q And it is kept by that agency as part of their  
8 records then?

9 A Yes, they maintain it as a record.

10 Q And is a copy of that flight check also kept in the  
11 records of Broome County Aviation or Commuter Airlines?

12 A Yes, it is.

13 Q Is a pilot also furnished, the captain furnished  
14 with a copy of that?

15 A I normally furnish them with a copy, yes.

16 Q Now, you have explained to us, generally, the captain's  
17 check ride. Will you tell us briefly with reference  
18 to the copilot?

19 A The copilot's ride is given annually and is somewhat  
20 briefer in nature as far as the requisite items and  
21 ground training and/or written. This would normally  
22 be given in the same manner as the captains, and the  
23 flight work, you still have the required maneuver  
24 items to cover, a number of instrument approaches.  
25 There are less. In other words, you don't have to



1 do all the approaches in the copilot check.

2 Q And is the procedure, the paper procedure generally  
3 the same as you have described to be in the captain's  
4 flight check?

5 A It is similar. The certificate is generally not  
6 executed, it is just the check sheet becomes a record  
7 of the check being given.

8 Q I'm sorry, I didn't catch what you said last.

9 A The check sheet becomes the record of it being given  
10 and there is no additional certificate required on  
11 the present procedure.

12 Q I see. And again, is a copy of that or a duplicate  
13 original of that flight check filed with the Federal  
14 Aviation Agency?

15 A Yes, it is.

16 Q And a copy or another duplicate of that, the result  
17 of that flight check made a record of the company itself?

18 A Yes, it is.

19 Q Now, you have indicated to us that from time to time,  
20 I think you said once out of every six test flights,  
21 the Federal Aviation Agency itself participates,  
22 would that be right?

23 A Yes, by their policy they will participate one in six.

24 Q And in connection with the Commuter Airlines over the  
25 past years, have they frequently sent down some

1           representative from Rochester for the purpose of  
2           administering these check rides?

3       A     Yes, I have a visit from them on a monthly basis,  
4           approximately.

5       Q     I see, all right. Now, in connection with the  
6           giving of a flight check, are there certain minimum  
7           standards that are absolutely essential to be passed  
8           by either the captain or the copilot in order to  
9           successfully pass such a flight check?

10      A     Yes, there are.

11      Q     And in the course of a practical application on  
12           giving these flight checks, do you also make certain  
13           notes for your own use?

14      A     Frequently, yes.

15      Q     Would you explain that to us, briefly, please?

16      A     Well, the 8410, the check format set forth by the  
17           FAA, simply calls for a satisfactory run. Satisfactory  
18           provides for the waiving of certain items that may  
19           or may not be mandatory on a given check. When you  
20           do consecutive checks with the same pilot, you perhaps  
21           are somewhat aware of his proficiency and you make  
22           a separate sheet usually for yourself for the purpose  
23           of critiquing him for his best advantage and gain  
24           from that check.

25      Q     And that memorandum would be utilized in connection



1 with further training or further instruction to  
2 either the pilot or copilot?

3 A That's right, it is strictly to be able to critique  
4 him properly after the check.

5 Q Now, of course, administering a check ride to a  
6 captain, you have occasion to fly with him in the  
7 plane as the check ride is being administered, would  
8 that be right?

9 A Yes, I ride with him.

10 Q And as a matter of fact, in check flying a captain,  
11 more than one type of aircraft is customarily used?

12 A Normally in our operation it is because our crews  
13 are cross-qualified in certain types. It becomes  
14 necessary to divide the check between two airplanes  
15 to cover the requirements in two airplanes.

16 Q And what, in an understandable way for us, would  
17 that be, what type of aircraft are we talking about?

18 A Well, as a normal cycle, if the man were qualified  
19 in a Metro and a Beachcraft and the Navajo aircraft,  
20 we would normally give him one cycle would be the  
21 Metro and the Navajo, and the next cycle would be  
22 the Beachcraft and the Navajo. The reason for the  
23 Navajo being in both checks, all our captains are  
24 authorized a single pilot authorization, and this  
25 has to be checked as a part of their six-month check.

1 It is necessary to fly with them and have them  
2 demonstrate the use of the autopilot under simulated  
3 instrument conditions.

4 Q And one of these check rides with a captain would  
5 take roughly what period of time?

6 A Well, probably an hour and 20 minutes of actual  
7 flying, plus the subsidiary time.

8 Q And the time utilized in a copilot flight check  
9 would be approximately what?

10 A Say 35, 40 minutes would be an average.

11 Q Now, apart from administering check rides, Mr. Bell,  
12 when you are, of course, in the airplane with the  
13 captain as you administer to him such a check ride,  
14 would there be other occasions when you would have  
15 occasion to fly with another captain?

16 A Oh, yes, I fly with them. They are required an en  
17 route check on an annual basis, and I do give a  
18 certain portion of those.

19 Q What kind of a check would that be?

20 A That is an en route check.

21 Q An en route check. And what is an en route check?

22 A Well, it is simply checking the man operationally  
23 from A to B. It may be given with the check pilot  
24 either in the copilot's seat or in a seat from which  
25 he can observe. It depends upon the --



1 Q And that would be a route check at a time when the  
2 pilot was engaged in flying the aircraft on some  
3 business for the company?

4 A That's right, it would be.

5 Q Such as carrying passengers, something of that sort,  
6 would it?

7 A Yes, it could be passengers, it could be mail or  
8 freight, but he is conducting a normal operation and  
9 being observed in the conduct of that operation.

10 Q Now, Mr. Bell, throughout the period of time that  
11 you have been employed by the company since 1958 or  
12 '59, have you ever had any financial interest in  
13 either of the corporations involved?

14 A No, I haven't.

15 Q Or have you ever had any stock ownership in either  
16 of those corporations?

17 A No.

18 Q And has your remuneration throughout your employment  
19 with Broome County Aviation and Commuter Airlines  
20 been your wages and salary?

21 A Yes, it has.

22 THE COURT: Do you get bonuses?

23 Q The judge asked you a question.

24 THE WITNESS: Bonuses? I don't  
25 quite follow you.

1 THE COURT: Do you receive any  
2 kind of a bonus?

3 THE WITNESS: I receive a bonus  
4 for flying time and holiday bonus. I'm not quite --

5 THE COURT: Well, do you receive  
6 anything over and above your salary for the successful  
7 operations of the company in any given year?

8 THE WITNESS: I am basically paid  
9 on salary and incentive basis. In one year of the  
10 company's history we did have a profit sharing, I  
11 believe it was 1962. I did receive a bonus which  
12 was related to success of the company at that time.

13 THE COURT: In 1962?

14 THE WITNESS: Yes, sir.

15 THE COURT: And not since then?

16 THE WITNESS: Since then my  
17 compensation has been related to my seniority and  
18 my duties, strictly.

19 THE COURT: But no bonus or sharing  
20 of profit in any way?

21 THE WITNESS: No, sir, other than  
22 a holiday bonus at Christmastime or year end.

23 THE COURT: Well, that is exactly  
24 what I am asking you about. What about your holiday  
25 bonus or Christmas gift?



1 THE WITNESS: It is generally a  
2 week's to a half week's base salary.

3 THE COURT: Does it exceed that  
4 if the company has been particularly successful in  
5 its operations of profit in its operations?

6 THE WITNFSS: A time in 1962 and  
7 one time in the early seventies when there was a bonus,  
8 but these were bonuses to myself and all employees.

9 THE COURT: I see. Does the amount  
10 of the bonus vary from year to year, your Christmas  
11 gift?

12 THE WITNESS: Slightly.

13 THE COURT: It is up when the  
14 year is good for the company and down when the year  
15 is bad for the company?

16 THE WITNESS: I would think that  
17 is generally correct.

18 BY MR. SHANAHAN:

19 Q You spoke about something I think you referred to as  
20 a bonus for flight time. Would you explain that to  
21 us, please?

22 A Well, it is really an incentive pay. It is for flight  
23 time over 60 hours that month.

24 Q You receive additional compensation when you pass 60  
25 hours of flight time in a given month, is that we are

1 to understand?

2 A Yes, that is the standard pilot compensation within  
3 the companies.

4 Q I see. And may I ask you, Mr. Bell, do you take  
5 flights yourself?

6 A Yes, sir, I fly regular line flights.

7 Q And when you talk about line flights, what do you  
8 mean by that?

9 A Regularly scheduled flights which are commercial  
10 operations of the company.

11 Q And would that be then flights of various types,  
12 regularly scheduled passenger operation?

13 A Yes, sir.

14 Q Charter operations?

15 A Yes, sir.

16 Q Wherever your service might be needed or required,  
17 would that be so?

18 A That is so.

19 Q And do you do that on a daily basis in the course  
20 of your work?

21 A Yes, I generally fly at least one line flight every  
22 weekday.

23 Q And now, you indicated to us earlier that you had some  
24 duties in connection with employment of personnel,  
25 copilots or captains. Would you describe your duties



1 a little further in connection with that phase of  
2 the operation?

3 A Well, normally, I sit down with Mr. Winston and we  
4 project the number of employees that we will need  
5 and what we have for the forthcoming period, and when  
6 he authorizes me to start a selection process, I  
7 begin to work on that.

8 Q And when you speak of authorizes you to start a  
9 selection process, you mean that he authorizes you  
10 to employ additional people in certain capacities?

11 A Well, to begin the selection, right, so many pilots,  
12 whatever, so many copilots.

13 Q Now, in connection with that, what did you do?

14 A It depends on how imminent the need is. I may  
15 advertise or I may deal from the -- or analyze from  
16 the applications I have received just in normal  
17 course of business in the recent interval and look  
18 them over and see if they have the technical quali-  
19 fications that we are generally looking for and select  
20 from whatever size group I have to bring a certain  
21 number of people in for an interview.

22 Q And then after you have made that selection, you do  
23 interview the people who are applying for jobs?

24 A Yes, I do.

25 Q And is that something that you conduct yourself?

1 A Well, normally the interview has a segment that I  
2 conduct and generally Mr. Winston speaks with them  
3 also before the contingent offer is made.

4 Q And in the event that Mr. Winston did not happen  
5 to be available to participate in the personal inter-  
6 view, would you report then to him the result of  
7 whatever interview you had?

8 A Yes, I would.

9 Q All right. And what would be the requirements you  
10 would have in mind in a general way, say, in the  
11 selection of an applicant for a job as captain?

12 A Well, I would, in general, select what I consider  
13 to be qualified applicants by their ratings and their  
14 experience, the particular area of the country that  
15 their experience has been in or the type of climate,  
16 that is rather important to me, and find some people  
17 that fall into that. I would perhaps call them and  
18 conduct a telephone interview, and if I felt, based  
19 on that, that they were people we wanted to talk to  
20 more seriously, I would provide or arrange the means  
21 for them to come and talk with me personally.

22 Q All right. Now, with reference to copilots, generally  
23 what is your procedure?

24 A It is roughly the same, I would say.

25 Q And now, when a person is hired, he may be hired, as



1 I understand it, in one of two ways. A person may  
2 be hired as a captain, would that be correct?

3 A Yes, there are new hired captains hired.

4 Q And then a person also may be hired specifically as  
5 a copilot?

6 A That's correct.

7 Q Now, let's take the case of a person hired as a captain.  
8 Is there a procedure that is regularly followed in  
9 connection with the employment of a person as a  
10 captain?

11 A At what point, starting with the interview or --

12 Q No, I mean now he has been employed.

13 A Okay.

14 Q And how is he assigned?

15 A Normally he comes into the company, is given some  
16 orientation in ground school, some observer flights,  
17 is given an initial equipment qualification which is  
18 technically a second in command qualification to  
19 allow him to receive on line training over operational  
20 lines.

21 Q So that even though he was hired as a captain, he  
22 actually works for a period of time as a copilot?

23 A That's correct.

24 Q And is that to enable him to familiarize himself with  
25 the aircraft that is operated by the company?



1 A That's right, the aircraft, the routes and the  
2 facilities into which we go.

3 Q Now, after he has completed that apprenticeship,  
4 if you could properly call it that, is he then trans-  
5 ferred directly to the rank of captain?

6 A He will have to undergo, prior to being assigned as  
7 a captain, a pilot in command check or an initial  
8 six-month instrument check with the company.

9 Q And he also has to have his transport rating that  
10 has been mentioned here earlier in the trial?

11 A Yes, the companies require an airline transport  
12 rating.

13 Q And are some of the people that are employed as  
14 captains individuals who already possess that trans-  
15 port rating?

16 A Normally if they are a newly hired captain, they are  
17 not hired unless they do possess it.

18 Q They would already have that rating, would that be  
19 so?

20 A That would be correct.

21 Q But nonetheless, would work actually as a copilot  
22 for a period of time to become familiar, as you say,  
23 with the equipment, the routes and so on?

24 A Yes, sir.

25 Q All right. Now, about what period of time would

1 normally be taken up by the procedure necessary to  
2 familiarize a captain, a person employed as a captain  
3 with the equipment, routes and so on?

4 A It would vary a good bit with his particular background  
5 and his most recent flying or type of flying he has  
6 been doing and the type of equipment he has flown  
7 previously. In other words, the degree of previous  
8 familiarity has a lot to do with it. It could vary  
9 from as little as a couple of weeks if he came from  
10 a very similar operation using similar equipment, to  
11 perhaps three, as much as four months.

12 Q The period of time would range, would that be so?

13 A Yes.

14 Q And in connection with the employment of a captain,  
15 does he also receive, other than this opportunity  
16 to observe and familiarize himself with the aircraft,  
17 does he also undergo some training period?

18 A Yes, he does. During the time that he is flying his  
19 on line training, he gets various checks and flights  
20 in pure training flights to improve his familiarity  
21 and proficiencies with the airplanes we are operating.

22 Q And is that training again given either by you or  
23 under your supervision?

24 A Yes, it is.

25 Q All right. Now, with reference to the copilots, when



1 a man is employed as a copilot, will you tell us,  
2 first of all, is there a company procedure and  
3 practice that has been followed for some period of  
4 time with reference to the employment of copilots?

5 A Yes.

6 Q And first of all, let me ask you, is there a probation-  
7 ary period in connection with the employment of a  
8 person as a copilot?

9 A Normally, one year.

10 Q One year probationary period?

11 A Yes, sir.

12 Q All right. And you indicated, generally, your  
13 procedure in employing a copilot would be very  
14 similar to that of a captain, would that be so?

15 A Yes, it would, except that I generally accept his  
16 credentials at face, I make him a contingent offer  
17 of a position pending his being able to do the flying.  
18 A captain, I generally give an interview flight  
19 check to.

20 Q I see, all right. Now, will you explain to us what  
21 the practice and procedure is of the company in  
22 the employment of a person as a copilot?

23 A Well, he normally comes in, he receives ground  
24 schooling and similar to what the captain does,  
25 observation and some observation of flights. He



1 is given a basic training in the airplane and second  
2 in command, a copilot check to at least the minimum  
3 standards before he is assigned.

4 Q Now, the duty of a copilot during the course of a  
5 flight, would you tell us what the copilot is expected  
6 to or be able to do?

7 A In certain airplanes we have the cockpit workload  
8 divided and he, as a general thing on a scheduled  
9 flight, for example, boards the airplane, counts  
10 the passengers, verifies his head count with the  
11 captain's to be certain that they have a proper  
12 count. He secures the door, takes his seat and acts  
13 at the direction of the captain. He, in general,  
14 will read the checklist and will handle the communicating  
15 on the radio while the pilot, the captain, flies,  
16 physically flies the airplane or physically moves  
17 the airplane about for the purpose of flight.

18 Q All right. And in the course of the flight, what  
19 would be the duties or the obligations of the copilot?

20 A Well, of course, to perform at the direction of the  
21 captain. He, assuming that the captain is flying  
22 that leg, he would continue to handle the routine  
23 communications with the air traffic control facilities  
24 and read the checklists as the captain would call for  
25 them. And that would be fundamentally his duties.

1           Upon arrival at the destination, he would open the  
2           door. He, generally, physically or verbally, delivers  
3           the passengers briefings that are required.

4           Q     Now, on the return flight, assuming that we are  
5                 talking about a flight, say, from Binghamton to  
6                 Newark, you described the outgoing flight. Now,  
7                 on the return flight, would there be any difference  
8                 in that procedure at all?

9           A     Well, at the discretion of the captain, the copilot  
10                may fly the return leg, and it is, of course, strictly  
11                at the discretion of the captain, and most of them  
12                do. He would still fly the airplane from his seat  
13                with his set of controls, but he would do the physical  
14                control manipulation and the captain would then  
15                read the checklists and do the appropriate communi-  
16                cating.

17          Q     I see. And the flying then by the copilot, if that  
18                 did occur in the course of a flight, would be under  
19                 the specific direction of the captain who occupies  
20                 the next seat to him, would that be it?

21          A     That's right.

22          Q     All right. So that a copilot is expected to have  
23                 proficiency in the actual operation of the plane itself,  
24                 would that be so?

25          A     Yes, it would.



1 Q And I assume that one of the reasons for a copilot  
2 is to have somebody to bring a plane in in the event  
3 the pilot or captain becomes disabled for any reason  
4 in the course of a flight?

5 A Yes, that would be one.

6 Q All right. Now, in connection with copilots, during  
7 the course of their training and so on, are there,  
8 from time to time, what the company calls progress  
9 checks administered to copilots?

10 A Yes, generally, we like to keep in touch with their  
11 progress, the progress in their proficiency.

12 Q And what would a progress check be?

13 A Well, it might very well just be a plane flight with  
14 me or it could be a special flight.

15 Q If it were a special flight, would it be somewhat  
16 in the nature of what you described to us as a check  
17 flight?

18 A Yes, it would.

19 Q That is, you would go up with a pilot or with a  
20 copilot and have him put the plane through various  
21 procedures and you would observe him in the course  
22 of that operation, would that be right?

23 A That would be right.

24 Q And progress checks such as that would be purely for  
25 your information to evaluate how the copilot was



1 coming along in his studies, schooling and so on?

2 A Yes, it would be purely for our own information.

3 Q All right. And are copilots also assigned to captains  
4 that you designate to be instructor captains?

5 A Yes, there are captains designated as instructor  
6 captains, and in general, the copilots are assigned  
7 to them on a rotating basis, more or less.

8 Q All right. Now, was there a time when the company  
9 and the representative of the copilots met, I think  
10 sometime in 1973, on the subject of pay and other  
11 requirements that should be expected of copilots?

12 A Yes, there was a time.

13 Q Could you tell us first of all when that occurred?

14 A Well, I can't recall the exact date now. It was  
15 following a company meeting. The copilots had  
16 raised a certain number of complaints about their  
17 compensation and schedules and so forth, and it was  
18 a group meeting in the entire company, so it was  
19 elected, or in their interest that we would have a  
20 private meeting between Mr. Winston, myself and the  
21 copilots then employed, and we would set forth, or  
22 we would attempt to resolve our problems, really,  
23 is what it boiled down to.

24 Q Now, as a result of that situation, was there a time  
25 Mr. Winston and the copilots came to an agreement on

1 some program that would be from that time observed?

2 A Yes, it was.

3 Q And would you tell us what that was, please?

4 A Well, it was a program of three annual base salary  
5 increments, two annual base salary increments covering  
6 three years of service. It provided a weekly stipend  
7 increase for the man who held his ATR or ATP. It  
8 increased some of the incentive pays that they were  
9 entitled to, and there was some increase involved  
10 there. They agreed to accept certain additional  
11 outside duties. It was set up as a program covering  
12 three years. I referred to it at that time as what  
13 I called an up and out program, because basically,  
14 three years would be considered about the maximum  
15 time that a copilot would remain as a copilot.

16 Q And what was the program so far as the three-year  
17 period being the maximum time to remain as a copilot?

18 A Well, it was planned that a copilot would upgrade  
19 either within our operation or would chose to seek  
20 another opportunity within that three-year interval,  
21 and if he was going to stay past that we were making  
22 the point that we weren't seeking a career copilot.  
23 I think that was our --

24 Q So that do I understand it correctly then that a  
25 copilot was expected to become a captain within a



1 three-year period?

2 A Yes, it was.

3 Q And to have the ratings necessary to enable him to  
4 advance to that rank, would that be so?

5 A That is correct.

6 Q And that would require this ATR rating that has been  
7 mentioned during the trial here, would that be true?

8 A Yes, it would.

9 Q Now, was Mr. Williams a copilot at the time of that  
10 meeting?

11 A Yes, he was.

12 Q And did he have anything to do with the negotiations  
13 of these pay raises and this program that you have  
14 just explained to us?

15 A Yes, he acted as a spokesman, more or less, for the  
16 copilots. He raised the issue in the group meeting  
17 and he then acted more or less as their spokesman  
18 during the specific meeting with the copilots.

19 Q And it was as a result of the meeting at which he  
20 acted as spokesman for the copilots that this program  
21 was adopted back in 1973?

22 A That was correct.

23 Q And was that program still in effect in the latter  
24 part of the year 1974?

25 A Yes, sir.



1 Q All right. Now, there came a time, Mr. Bell, when  
2 Mr. Slough, Mr. Josephson and Mr. Baan were discharged  
3 I think that they have testified that occurred on  
4 October 3rd, 1974?

5 A Yes, sir.

6 Q And do you agree that that is the date that those  
7 men were discharged?

8 A Yes, sir.

9 Q Now, previous to that time, to that date, had you had  
10 some meeting with Mr. Winston?

11 A Yes, sir.

12 Q Where that subject came up?

13 A Yes, I did.

14 Q And do you recall when that meeting occurred, you and  
15 Mr. Winston?

16 A Not specifically, but in late September.

17 Q Late September?

18 A Yes, sir.

19 Q And will you tell us what occurred at that meeting,  
20 what transpired?

21 A Well, he informed me that we had been hiring but we  
22 had some problems because two pieces of business that  
23 he had more or less planned on were not materializing  
24 and he felt that perhaps I had overstaffed a little  
25 bit.

1 Q And what further, if anything, was discussed or  
2 decided at that meeting?

3 A Well, he indicated that we should --

4 MR. CHALENSKI: Your Honor, I  
5 object as hearsay.

6 THE COURT: Would you come up,  
7 please?

8 (Off-the-record discussion at bench.)

9 THE COURT: Overruled. Go ahead.

10 MR. SHANAHAN: Would you read back  
11 my last question, please?

12 (The pending question was read  
13 back by the reporter.)

14 THE COURT: I would say to the  
15 jury, we are accepting what Mr. Winston said at this  
16 meeting for the fact that he said it and not for the  
17 truth of what he said. Proceed.

18 BY MR. SHANAHAN:

19 Q We are talking now, Mr. Bell, about the meeting that  
20 preceded the discharge of Mr. Slough, Mr. Josephson  
21 and Mr. Baan, your meeting with Mr. Winston. Will  
22 you tell us further with reference to that meeting  
23 between you and Mr. Winston?

24 A Well, he had indicated that two particular items of  
25 business that he had been planning on during the



1 expansion really hadn't materialized and he didn't  
2 feel they were going to materialize and perhaps  
3 we are in an overstaffed condition.

4 Q All right. And was there anything further discussed  
5 or decided at that meeting?

6 A Yes, we discussed what individuals we should dismiss.

7 Q And was there a determination arrived at at that  
8 meeting?

9 A Yes, there was.

10 Q And as a result of that determination, did you  
11 receive certain instructions from Mr. Winston?

12 A Yes, I did.

13 Q Would you tell us what those instructions were?

14 A To discharge Mr. Baan, Mr. Slough and Mr. Josephson.

15 Q And in the course of this meeting with Mr. Winston,  
16 were those three individuals individually discussed  
17 by both you and by him?

18 A Yes, they were.

19 Q And you indicated to us that at the termination of  
20 that meeting you had received those instructions?

21 A Yes, I had.

22 Q Now, there has been testimony during the trial here  
23 that on September 24th, I believe was the date, some  
24 letter had been circulated in the mailboxes of the  
25 various pilots and copilots. Do you recall that



1 testimony?

2 A Yes, I do.

3 Q I think that that was something that Mr. Slough  
4 claimed to have authorized and put in the mailboxes  
5 without signing it and so on?

6 A Yes, I recall that.

7 Q Let me ask you: Were you, the time that we are  
8 speaking about when you met with Mr. Winston, were  
9 you aware of that letter being circulated?

10 A I can't recall for sure whether I was or not.

11 Q There did come a time when you were aware of it,  
12 would that be so?

13 A Yes, I eventually became aware of the letter.

14 Q When you became aware of it, did you know who wrote  
15 it?

16 A No, I didn't.

17 Q Or did there ever come a time when you learned that  
18 Mr. Slough was the author of it?

19 A Yes.

20 Q When was that?

21 A Last Tuesday morning.

22 Q During the trial here when he testified?

23 A That's right.

24 THE COURT: You never heard that  
25 before?

1 THE WITNESS: I never heard that  
2 before.

3 BY MR. SHANAHAN:

4 Q Now, there has also been testimony that there was a  
5 union organizational meeting at the Holiday Inn on  
6 October 1st of 1974. Do you recall that testimony  
7 of that situation?

8 A October --

9 Q Do you recall hearing that testimony during the trial  
10 about that meeting?

11 A Yes, I do, right.

12 Q Now, were you aware of a meeting that was to be held  
13 at or about that time, a union meeting?

14 A Not a specific meeting, but I knew there were to be  
15 meetings.

16 Q You knew there were to be meetings?

17 A Yes.

18 Q And had some information come to your attention on  
19 that subject?

20 A Yes, it had.

21 Q And then do you recall how you heard of that or in what  
22 way you acquired that information?

23 A Not specifically.

24 Q There was some testimony here by Captain Kleitz with  
25 reference to his having a conversation with you in



1 advance of his attending the meeting of October, I  
2 think it was October 2nd of '74. Do you recall Mr.  
3 Kleitz talking to you on that subject?

4 A I am sure he did.

5 Q Now, in your discussion of releasing Mr. Slough,  
6 Mr. Josephson and Mr. Baan with Mr. Winston, was  
7 there any discussion between you and Mr. Winston on  
8 the subject of union activities by any of those  
9 people?

10 A No, that wasn't a factor.

11 Q Did you, at the time that you discussed the termina-  
12 tion of those people with Mr. Winston, know or have  
13 any information that Mr. Slough, Mr. Josephson or  
14 Mr. Baan were engaged in union activities?

15 A No, sir.

16 Q And did you yourself discuss the actual termination  
17 of their employment with each of those individuals?

18 A Yes, I did.

19 Q Now, do you recall -- well, let me ask you first about  
20 Mr. Slough.

21 A Okay.

22 Q Will you tell us what occurred at the time that he  
23 was terminated, that is, first of all, did you meet  
24 with him?

25 A Yes, I did.



1 Q And do you recall when that occurred?

2 A I don't recall the date without checking my schedule,  
3 but I assume it was the 3rd.

4 Q Where did your meeting with him take place?

5 A I had set up his schedule to bring him from his  
6 Elmira domicile to Binghamton so he could meet with  
7 me.

8 Q And when he did meet with you, where in the company  
9 premises did he meet you?

10 A I used Mr. Winston's office.

11 Q Was Mr. Winston at that time present?

12 A No, he wasn't.

13 Q And was there anyone present at the time of this  
14 conversation, Mr. Bell?

15 A Just Mr. Slough and myself.

16 Q Will you tell us what was said at the time of that  
17 conversation?

18 A I brought him in and I told him that it was necessary  
19 to be cut back and we had evaluated our people and  
20 I felt that his attitude least served our long-term  
21 interests and he had been selected to be terminated.

22 Q Was there anything further you said to him on that  
23 subject at that time?

24 A Not at that time.

25 THE COURT: Did you tell him what

1                   you meant by attitude?

2                   THE WITNESS: He had a number of  
3 problems of being available and being hard to reach  
4 both when he was in the Binghamton domicile and  
5 later a couple of occasions after he had gone to  
6 Elmira. He always -- he was just very hard to get  
7 hold of. He didn't seem to be too enthusiastic about  
8 some of the ground duties that were involved with  
9 his position, and in fact, had had some problems  
10 with counter and what have you, and those had been  
11 reported to me.

12                  THE COURT: What was the date you  
13 had this talk with him?

14                  THE WITNESS: The 3rd.

15                  THE COURT: 3rd of October?

16                  THE WITNESS: Yes, sir.

17                  THE COURT: What was the date of  
18 the meeting that the employees held concerning  
19 choosing a representative?

20                  THE WITNESS: The employees?

21                  THE COURT: The pilots meeting,  
22 what was the date of that? Wasn't that October 2nd?

23 BY MR. SHANAHAN:

24 Q       His Honor is talking about the union organizational  
25 meeting. Do you know the date of that, Mr. Bell?



1 A I know now it was October 2nd.

2 THE COURT: The night before you  
3 had this talk with Mr. Slough?

4 THE WITNESS: Yes, sir.

5 THE COURT: And you tell us under  
6 oath that you didn't know about that meeting the  
7 night before?

8 THE WITNESS: Not specifically.  
9 I knew there were meetings.

10 THE COURT: Did you know about  
11 it specifically or nonspecifically? Either you knew  
12 it or you didn't know it.

13 THE WITNESS: No, I didn't know  
14 about it. I didn't know when it was to be.

15 THE COURT: Did you know there had  
16 been a meeting?

17 THE WITNESS: No, I didn't.

18 THE COURT: Did you know that the  
19 copilots had called a meeting?

20 THE WITNESS: No, I didn't.

21 THE COURT: Did you know this  
22 employee we are talking about had attended that  
23 meeting?

24 THE WITNESS: No, sir.

25 THE COURT: You didn't know anything

1 about it at all, is what you are telling us?

2 THE WITNESS: I didn't know about  
3 the meeting.

4 THE COURT: And you were the  
5 supervisor of the day-to-day operations of this  
6 company, is that right?

7 THE WITNESS: Yes, sir.

8 MR. SHANAHAN: May I proceed,  
9 your Honor?

10 THE COURT: Yes.

11 BY MR. SHANAHAN:

12 Q All right. Was there anything further that occurred  
13 at this meeting with Mr. Slough beyond what you have  
14 told us up to this point?

15 A He threatened me. He said that he was being ter-  
16 minated for union activity, and I told him I had no  
17 knowledge of that and --

18 Q When you say you had no knowledge of that, you told  
19 him you had no knowledge of that?

20 A Of his union activity.

21 Q Was there any further conversation at that time?

22 A We talked at some length about his performance and  
23 he inquired about what areas I felt he had problems  
24 in.

25 Q Will you tell us, if you will, what was discussed at



1                   that meeting?

2           A       He said, "How about other pilots, do they like the  
3                   way I fly and what have you?" And I mentioned that  
4                   two of them had complained about his radio communica-  
5                   tions, but that wasn't really the main issue then.

6           Q       Was there any further discussion that you recall that  
7                   occurred at that time?

8           A       No, sir.

9           Q       Okay. And did Mr. Slough, following that conversation  
10                  leave the employ of the company?

11          A       Yes, he did.

12          Q       Now, did you also talk to Mr. Josephson that day?

13          A       Yes, I did.

14          Q       And will you tell us where that occurred?

15          A       That occurred in the same office.

16          Q       And the same date?

17          A       The same date.

18          Q       Do you recall which of these people were first?

19          A       I believe Mr. Josephson was first.

20          Q       The first man that you talked to?

21          A       Yes.

22          Q       Now, will you tell us what your conversation was with  
23                   Mr. Josephson?

24          A       I simply advised him he was being terminated as a  
25                   result of a cutback.

1 Q And was there some further conversation on that sub-  
2 ject?

3 A He said he wished to discuss it with Mr. Winston.

4 Q He said he desired to discuss that with Mr. Winston?

5 A Yes, he did.

6 Q And what if anything occurred at that point?

7 A Mr. Winston arrived and he did discuss the matter  
8 with him at some length.

9 THE COURT: When had you most  
10 recently hired a pilot or a copilot prior to October  
11 3rd?

12 THE WITNESS: I had hired Mr.  
13 Bann as a pilot.

14 THE COURT: When?

15 THE WITNESS: He actually reported  
16 in September sometime.

17 THE COURT: And he was the last  
18 one you had hired prior to this meeting?

19 THE WITNESS: Yes, it was.

20 THE COURT: And September when?

21 THE WITNESS: I don't recall the  
22 date.

23 THE COURT: Do you have any  
24 records to show it?

25 THE WITNESS: Yes, sir, I do.



1 THE COURT: Would you look at  
2 them and tell me?

3 (Witness looking at notes.)

4 THE COURT: Have you refreshed  
5 your recollection?

6 THE WITNESS: Yes, I have.

7 THE COURT: What was it?

8 THE WITNESS: The actual hiring  
9 was August 22nd and he reported on the 15th of  
10 September.

11 THE COURT: But he was the junior  
12 man of the roster of pilots and copilots?

13 THE WITNESS: Yes, he was.

14 THE COURT: Is he still with the  
15 company?

16 THE WITNESS: No, he isn't.

17 THE COURT: Did he remain with  
18 the company after October 3rd?

19 THE WITNESS: No, sir, he did not.

20 BY MR. SHANAHAN:

21 Q He was one of the three that were discharged on  
22 October, whatever that date was, October 3rd?

23 A Yes, sir.

24 Q Now, I think that you were in the process of telling  
25 us, Mr. Bell, that after your initial talk with Mr.

1 Josephson, that he indicated to you that he wanted  
2 to discuss the matter with Mr. Winston?

3 A Yes, he did.

4 Q And was Mr. Winston at that time available at the  
5 office?

6 A He arrived there shortly after.

7 Q And did Mr. Josephson then have a conversation with  
8 Mr. Winston?

9 A Yes, he did.

10 Q And have you told us all of the conversation that  
11 you had with him before Mr. Josephson began his  
12 conversation directly with Mr. Winston?

13 A Yes, it was very brief. I told him what the story  
14 was and he said that he wanted to take it up with  
15 Mr. Winston and I said fine.

16 Q All right. Now then, you indicated that he did have  
17 a conversation with Mr. Winston.

18 A Yes, he did.

19 Q And did that take place in Mr. Winston's office?

20 A Yes, it did.

21 Q And were you present at that conversation?

22 A No, I was not.

23 Q And can you tell us the duration, anything about the  
24 duration of how long he was closeted with Mr. Winston?

25 A I can't say.



- 1 Q And did you have, yourself, any further conversation  
2 beyond that you have told us with Mr. Josephson on  
3 the day that he was discharged?  
4 A No, I didn't.  
5 Q And Mr. Baan, his matter also came up that day, did  
6 it?  
7 A Yes, he spoke with me at my desk.  
8 Q I beg your pardon?  
9 A He spoke with me that day, right.  
10 Q He spoke to you that day. Now, I take it that you  
11 had sent for each of those three people for the  
12 purpose of terminating their services, would that  
13 be right?  
14 A Yes.  
15 Q And at the time that we are speaking of, Mr. Slough  
16 and Mr. Josephson, were they both in Elmira or was  
17 it just Slough in Elmira?  
18 A Just Slough was in Elmira.  
19 Q And Mr. Josephson was working at that point at Bing-  
20 hamton?  
21 A Yes, he was.  
22 Q As distinguished from Elmira?  
23 A Yes, that's right.  
24 Q Now, with reference to Mr. Bann, he is the pilot that  
25 you just answered some questions to the judge about

1 as to when he was hired, would that be so?

2 A Yes, sir.

3 Q All right. And did you have a conversation with  
4 Mr. Baan also on October 3rd?

5 A Yes, I did.

6 Q Will you tell us, first of all where that conversation  
7 took place?

8 A It took place at my desk.

9 Q At your desk?

10 A Yes.

11 Q And your desk, of course, is part of the Commuter  
12 Airlines?

13 A Yes, it is part of the general office area.

14 Q And is that all in what we would probably call the  
15 terminal building there?

16 A It is at hangar number two at the airport.

17 Q Hanger number two, that is where all of the offices  
18 are, would that be correct?

19 A That would be correct.

20 Q All right. And now will you tell us what the conver-  
21 sation was with Mr. Baan?

22 A He opened the conversation by wanting to know why  
23 I hadn't moved his training program along with a  
24 little more rapidity, his check out as a captain, and  
25 I told him I had, unfortunately, some bad news on



1                   that, that our needs had changed and we weren't going  
2                   to need him.

3           Q       Was there a further conversation at that time between  
4                   you and Mr. Baan?

5           A       No, that was about the limit of it.

6           Q       Was there any discussion of paying him some additional  
7                   money as a result of some compensation that had been  
8                   incurred by him during his short stay?

9           A       Yes, he had moved into the area and transferred his  
10                  domicile, and he was paid some extra severance as a  
11                  result of that. I did explain that to him and he  
12                  thanked me for that.

13          Q       Was there any talk in the course of your discussion  
14                  with Mr. Baan either on his part or on your part  
15                  relative to any union activity which he may have  
16                  been engaged in?

17          A       None whatsoever.

18          Q       Were you aware of any connection that he had at that  
19                  time?

20          A       No.

21          Q       Now, in point of time, it is my understanding that  
22                  there were some meetings scheduled by the company  
23                  for October 5th, would that be correct?

24          A       That would be correct.

25          Q       And there were two meetings scheduled for that day?

- 1 A Yes.
- 2 Q And was one of those meetings a meeting of the copilots
- 3 employed by the company?
- 4 A Yes, it was.
- 5 Q And the second meeting, a meeting of the captains?
- 6 A Yes, it was.
- 7 Q Now, which of those two meetings took place first?
- 8 A The captains meeting was first and then the copilots.
- 9 Q And that meeting took place in what area of the
- 10 day?
- 11 A They were, I believe, immediately before and after
- 12 lunch.
- 13 Q The captains meeting was before lunch, copilots
- 14 meeting after lunch, would that be the sequence?
- 15 A I believe so, about midday.
- 16 Q Now, that meeting took place in what area of the
- 17 company property?
- 18 A In the general office area.
- 19 Q And this was on a Saturday morning?
- 20 A Saturday, yes, sir.
- 21 Q And had the various captains been notified to be
- 22 available for that meeting?
- 23 A Yes, they were.
- 24 Q And could you tell us the number of captains, the
- 25 approximate number of captains that attended that



1 meeting?

2 A Ten, eleven probably. It was the staff less Captain  
3 Ferber.

4 Q And Captain Ferber, what was his status?

5 A He was on a detached service out of Dulles Inter-  
6 national Airport and for some reason could not attend.

7 Q When you say he was on a detached service, I don't  
8 know that that means very much to any of us. What  
9 do you mean?

10 A He was running an operation based out of Dulles  
11 International Airport. He was a contract, corporate  
12 contract type operation at that time.

13 Q It was nevertheless an operation of Commuter Airlines?

14 A Yes, sir.

15 Q And he was in charge of that operation working out  
16 of the Dulles Airport in Washington?

17 A Yes, he was.

18 Q And was he present or not present at the time of  
19 that meeting?

20 A He was not present at that meeting.

21 Q But were all of the, in a general way, at least  
22 all of the captains in the employment of the company  
23 present at that meeting?

24 A To my recollection the rest were all there.

25 Q And in the course of that meeting, were the people

1                   who were assembled there spoken to by Mr. Winston?

2           A       Yes, they were.

3           Q       And then did there come a time when you spoke to the  
4                   captains who were present?

5           A       Yes, I did.

6           Q       And in what order did that take place?

7           A       I spoke towards the end of the meeting.

8           Q       Toward the end of the meeting. Now, in the course  
9                   of the trial here we had a tape that was taken of  
10                  the copilots meeting which occurred, the later part  
11                  of the day, and you heard the playing of that tape?

12          A       Yes, I did.

13          Q       And you have also read the transcript similar to what  
14                  was held by the jury as they listened to the tape?

15          A       Yes, I did.

16          Q       Now, did the talk given by Mr. Winston at this first  
17                  meeting of the captains follow the subjects in the  
18                  language that was used by him in his second meeting  
19                  of the copilots?

20          A       Yes, I would say it did.

21          Q       Would you say that what he said to the captains  
22                  was substantially the same as what the jury heard  
23                  here on the tape as the statement to the copilots?

24          A       Virtually identical.

25          Q       I beg your pardon?



1 A I said it was virtually identical to what you said.

2 Q Virtually identical. Now, in the course of giving  
3 this talk by Mr. Winston at both of these meetings,  
4 did he conclude his talk by reading from some  
5 prepared statement that he had?

6 A Yes, he did.

7 Q And was that done at the captains meeting as well  
8 as at the copilots meeting?

9 A It was read at both meetings.

10 Q And did his remarks at each of the meetings conclude  
11 with the reading of that particular statement?

12 A Yes, other than he said a few words, two or three  
13 words in parting after I spoke.

14 Q After you spoke?

15 A Yes.

16 Q Well, now then, with reference to what you said at  
17 the captains meeting, do you recall substantially  
18 what you did say?

19 A Yes, I do.

20 Q Would you tell us, as best you can recall, what you  
21 said in speaking to the captains at that captains  
22 meeting of October 5th, I think it was?

23 A I said, "Gentlemen, I fly with you, I fly the same  
24 equipment you do, I fly the same routes that you do,  
25 the same weather that you do. I don't ask you to

1 fly anything I will not and have not flown myself.

2 I try to stand behind you on the -- I try to appreciate  
3 you on your good days and stand behind you on your  
4 bad days." That was approximately what I said, and  
5 the transcript contains the rest of what I said.

6 Q And what did you say last?

7 A I said -- the rest of what I said was pretty much on  
8 the transcript.

9 Q That is a portion of the transcript that shows a part  
10 of what you said would follow what you have just  
11 stated to us, would that be right?

12 A That would be correct.

13 Q Now, let me ask you, first of all, did you make the  
14 same remarks at the captains meeting as you did  
15 subsequently at the copilots meeting?

16 A Yes, I did.

17 Q Was there any variance that you can recall between  
18 what you have said at one meeting and what you said  
19 at the other?

20 A None that I recall.

21 Q Now, let me ask you, with reference to the captains  
22 meeting, specifically, did you make any statement  
23 relative to check rides?

24 A Not to check rides, no.

25 Q Was there any reference to that subject directly or



- 1 indirectly that you made at the captains meeting?
- 2 A No.
- 3 Q And you have told us the remarks that you did make
- 4 at the captains meeting followed in the same pattern
- 5 as the remarks that you made at the copilots meeting
- 6 later that day, would that be right?
- 7 A That's true.
- 8 Q And that captains meeting, it lasted about how long
- 9 would you say, Mr. Bell, from start to finish?
- 10 A A bit over an hour.
- 11 Q A bit over an hour?
- 12 A Yes, sir.
- 13 Q And the captains meeting, do you recall at about what
- 14 time that concluded?
- 15 A Well, it would have been just a little over an hour,
- 16 I think, say, an hour and 15, 20 minutes, approximately.
- 17 Q I didn't catch what you said.
- 18 A I would say a little after noon, I believe.
- 19 Q A little after noon. Now, the copilots meeting was
- 20 scheduled, you told us, a later time, and do you
- 21 recall about when that began?
- 22 A I think 1 or 1:30.
- 23 Q Held in the same location?
- 24 A Same location.
- 25 Q Now, this meeting is attended by copilots rather than

1 captains, would that be right?

2 A Yes.

3 Q And was there a fairly good attendance of all of the  
4 copilots that were employed by the company at that  
5 time?

6 A Yes, there was.

7 Q Would a Saturday such as this day we are talking  
8 about be an operational day? What I mean is, was  
9 there flights in and out on Saturday as other days?

10 A A lighter schedule, lesser degree, fewer flights

11 Q As a result of whatever flights there might have been,  
12 were there, as a result of that, some absences from  
13 the meeting of either the captains meeting of captains  
14 or the copilots meeting of copilots?

15 A There may have been one, and I don't believe there  
16 was more than one absent.

17 THE COURT: Would this be a con-  
18 venient place for our morning recess?

19 MR. SHANAHAN: Oh, yes, surely.

20 THE COURT: We will take a recess.

21 (Recess was taken.)

22 (Trial resumes.)

23 BY MR. SHANAHAN:

24 Q Mr. Bell, I want to go back a bit in point of time.  
25 Was there an occasion when there was a meeting at

- 1 the residence of Mr. Kleitz?
- 2 A Yes, there was.
- 3 Q He was one of the captains who testified here during
- 4 the course of this trial?
- 5 A Yes, he was.
- 6 Q And let me ask you while we are on that subject,
- 7 was there more than one meeting at his home?
- 8 A There were two.
- 9 Q Two meetings, all right. And did you attend both
- 10 of those meetings?
- 11 A Yes, I did.
- 12 Q Can you tell us, first of all, the first meeting in
- 13 point of time, when that occurred, as best you
- 14 recollect?
- 15 A Either late July or early August, to my recollection.
- 16 Q That would be late July or early August of 1974?
- 17 A Yes.
- 18 Q And were you requested to attend that meeting by
- 19 someone, Mr. Bell?
- 20 A Yes, Captain Kleitz asked me to attend.
- 21 Q He invited you to attend it?
- 22 A Yes.
- 23 Q This was at his residence somewhere in the Binghamton
- 24 area, was it?
- 25 A Yes, it was.



1 Q And according to your recollection, who else was  
2 present at that time?

3 A At that time there were Captain Harrington, Captain  
4 Briggs, Captain Ferber, Captain Pusztai, Captain  
5 Dolan, those are the ones that I recall being there.

6 Q And at that meeting was there a discussion in a general  
7 way about work conditions of those individuals with  
8 the Commuter Airlines?

9 A Yes, there was.

10 Q And all of the people that you mentioned, at the  
11 time of that meeting, were in fact employed by  
12 Commuter Airline at the time?

13 A Yes, they were.

14 Q And all had a position of captain?

15 A They did.

16 Q Would that be so?

17 A They did.

18 Q And I think that Mr. Lamos indicated to us that he  
19 was present at the meeting. I don't know whether  
20 you mentioned his name.

21 A I didn't mention his name, but he was there.

22 Q He was there, and did he act as secretary or in that  
23 capacity making notes as to the various matters that  
24 were discussed?

25 A He did.

1 Q Now, could you tell us what the general subjects were  
2 that were discussed at that meeting?

3 A The subjects were dispatching, wages and benefits,  
4 and a possibility of some alternatives if they  
5 couldn't be satisfied.

6 Q The possibility of some alternatives what?

7 A If they couldn't be satisfied.

8 Q I see. And was it proposed that these various matters  
9 that were discussed at that meeting would be taken  
10 up by you with Mr. Winston?

11 A It was eventually, yes.

12 Q All right. Now, all of these different subjects you  
13 have just mentioned to us were the subject of dis-  
14 cussion at the meeting, would that be correct?

15 A Yes, they were.

16 Q And now, at the time of that meeting, were there  
17 some captains who were not in attendance?

18 A Yes, there were.

19 Q Will you tell us who was not present?

20 A Captain Reeve, I specifically recall was on vacation.

21 Q And Captain Reeve, was he a senior pilot located at  
22 the Elmira office or in the Elmira domicile, I guess  
23 you would call it?

24 A Yes, he was.

25 Q He was not available for that meeting?

1           A       No, he wasn't.

2           Q       Anyone else that you recall?

3           A       No one I can specifically recall.

4           Q       Now, in the course of that meeting, the various people  
5                   present indicated what their views were on different  
6                   subjects, would that be right?

7           A       What their views on particular problems might be,  
8                   right.

9           Q       And by reason of the fact that Captain Reeve and  
10                  possibly another captain or two were not present,  
11                  was there some decision made with reference to dis-  
12                  cussing the matter with them before further action  
13                  was taken?

14          A       Yes, there was.

15          Q       Would you tell us what that was, please?

16          A       Well, it was decided that Don, Captain Reeves should  
17                  be aware of the things that they were proposing  
18                  because the idea was to more or less get their ideas  
19                  together on what their problems were, and Reeve was  
20                  to be consulted and the thing was to be discussed and  
21                  they were to set up another meeting.

22          Q       All right. Now, after that first meeting, did Mr.  
23                  Lamos give to you some paper or papers that he  
24                  prepared which were supposed to reflect what was  
25                  decided on at that meeting?



1 A Yes, he did.

2 Q And he indicated to you that you were to circulate  
3 copies of that paper to various captains, was that the  
4 situation?

5 A No, that wasn't the situation.

6 Q All right, what was the situation at the close of  
7 that first meeting?

8 A The situation was that we would call another meeting  
9 upon Captain Reeve's return from vacation at a time  
10 which all could be present and they would then decide  
11 whether they accepted those notes or minutes and  
12 whether or not I could then proceed to confer with  
13 Mr. Winston on the matter. I assured them I would  
14 wait until I heard from them.

15 Q Now, the paper that Mr. Lamos gave you the next day  
16 or so following that meeting, whenever it was, did  
17 you examine that?

18 A Yes, I did.

19 Q And did that appear to reflect what had been discussed  
20 at the meeting at Mr. Kleitz' residence?

21 A Insofar as wages and benefits, yes, and working  
22 conditions, it did.

23 Q Now then, was there a second meeting arranged again  
24 at Mr. Kleitz' home?

25 A Eventually there was.

1 Q And could you tell us when or approximately when that  
2 occurred?

3 A It was quite a bit later, in September.

4 Q Sometime in the month of September of 1974?

5 A Yes.

6 Q So would there have been then a period of substantially  
7 a month or perhaps more than a month between the first  
8 meeting and the second meeting?

9 A Yes, more than a month, I am sure.

10 Q Now, you indicated that you attended the second  
11 meeting as well.

12 A Yes, I did.

13 Q That again at Mr. Kleitz' residence?

14 A Yes, it was.

15 Q And can you tell us who was present on that occasion?

16 A Captain Kleitz, Captain Briggs, Captain Harrington,  
17 Captain Pusztai and Captain Dolan, Captain Flota,  
18 probably.

19 Q And was Captain Reeve present at that meeting?

20 A I can't be certain but I had discussed the matter  
21 with Captain Reeve in the interim.

22 Q And now will you tell us what transpired at the  
23 second meeting?

24 A It was basically a get together. There were rumors  
25 of outside unions to become involved in an organizing

1 effort.

2 Q Was that a subject of discussion at that second  
3 meeting, Mr. Bell?

4 A It was discussed.

5 Q And will you tell us what you recall was said with  
6 reference to outside unions coming in at the time  
7 of this second meeting at Mr. Kleitz' residence?

8 A I think everybody expressed both and pro and con as  
9 they saw it and --

10 Q Well, I don't think that gives us very much informa-  
11 tion. First of all, what was said, if anything,  
12 on the subject of an outside union coming in?

13 A Nobody expressed anything clearly in favor or against  
14 it.

15 Q I'm not asking who was in favor or against it. I'm  
16 asking you what was said on the subject of such a  
17 situation developing where a union was coming in.  
18 Did somebody say that that was likely to happen or  
19 that that was going to happen or what?

20 A I think the rumor was probably revealed at that  
21 meeting.

22 MR. CHALENSKI: Objection. Rumor  
23 revealed?

24 THE COURT: Sustained. Strike it  
25 out.



1 BY MR. SHANAHAN:

2 Q You put it in the form of a rumor. I have to ask  
3 you what was said on that subject, if anything was  
4 said.

5 A Somebody indicated that I believe outside unions are  
6 interested in us or interested in Commuter Airlines  
7 or interested in organizing Commuter Airlines.

8 Q And following that, was there a discussion among  
9 those present on the subject of either being in  
10 favor or against an outside union?

11 A Yes, there was discussion.

12 Q And did some of those present indicate that they  
13 favored such a thing?

14 A No, they didn't.

15 Q Will you tell us what they did say with reference  
16 to it?

17 A Well, most of the references were people who had had  
18 previous experience with unions, and by and large  
19 they said, you know, I belonged to a union here and  
20 it wasn't a good deal, it never did anything for me,  
21 et cetera, et cetera, and that was the tone of the  
22 conversation, really.

23 Q All right. Now, could you tell us who spoke along  
24 that line?

25 A Captain Flota specifically spoke in that area.

1 Q And did he indicate that he had belonged to some  
2 union previously?

3 A He had flown for a firm by the name of Commuter  
4 Airlines in Chicago and indicated that they had  
5 unionized and they had gotten into a lot of problems.  
6 The company had eventually gone bankrupt, and he was  
7 out of a job and he didn't feel it was a very good  
8 deal.

9 Q Did anybody else speak on that subject?

10 A He was the only one I recall discussion union exper-  
11 ience.

12 Q Now, did you have anything to say on the subject of  
13 a union?

14 A Well, I talked about it a little, I guess.

15 Q Would you tell us what you said, please?

16 A Well, I said I didn't oppose a union, necessarily,  
17 if that is what they thought that they wanted.

18 Q Was there any talk about attending meetings if one  
19 did come in?

20 A I was asked what I would recommend if they were  
21 notified of a meeting by a union.

22 Q What did you tell them that you would recommend in  
23 that area?

24 A I recommended that they attend and ask questions.

25 Q That they attend any meetings and ask questions, is

1           that what you said?

2       A       That's what I said, yes.

3       Q       So back as far as that second meeting at the Kleitz  
4               residence, there was some talk at least on the subject  
5               of the possibility of an outside union coming in,  
6               would that be right?

7       A       It was.

8       Q       Now, you indicated in answer to the judge's question  
9               to you earlier that you were not aware of the union  
10              meeting on October 2nd. Would that be right?

11      A       That would be right.

12      Q       Had anybody notified you of that meeting being  
13              scheduled that night?

14      A       No, they hadn't.

15      Q       You were up to the time that you talked to these  
16              men in terminating their employment the next day,  
17              had anybody told you that there was such a meeting?

18      A       Nobody had.

19      Q       Or who was present at that meeting if there was one?

20      A       No, sir.

21      Q       Now, with reference to Mr. Slough, Mr. Josephson and  
22              Mr. Bann coming to your office on October 3rd, was  
23              that the date you discharged them, October 3rd?

24      A       Yes, sir.

25      Q       Did you notify them in advance of your request that



1           they come in to talk to you?

2       A       I didn't notify them in advance but I scheduled them  
3           so that they could talk to me at a mutual convenience.

4       Q       Now, when you say you scheduled them, what do you  
5           mean by that?

6       A       Well, normally we have a flight schedule which is  
7           set up and crews are in because of charter work and  
8           the extra sections here in either an a.m. or p.m.  
9           cycle in accordance with their particular duty time,  
10          and of course, I set that up at about 5 o'clock each  
11          afternoon, and I had set their schedules the previous  
12          evening so that my schedule and theirs would coincide  
13          at the office.

14      Q       Just so that we can understand that then, in order  
15          to carry out your interviews with them on October  
16          3rd, do I understand that you scheduled them in  
17          order to make those interviews possible?

18      A       Yes, I did.

19      Q       On that day?

20      A       I did.

21      Q       And this scheduling that you did to make those  
22          meetings possible, when did you do that?

23      A       I would have done that at 5 o'clock on the evening  
24          of the 2nd, the previous day.

25      Q       The evening of the previous day?

1 A The previous day.

2 Q And when you scheduled them, would you tell us just  
3 what that means in relation to their being available  
4 to talk to you the following day?

5 A Well, normally, the number of flights are set forth.  
6 We had people in the office that do that, and once  
7 they have completed their at work, I apply  
8 the crews to that schedule. In other words, consis-  
9 tent with the duty hours that they are then working.  
10 And I apply myself also as crew, and so I set these  
11 people up so that my time and theirs would coincide  
12 on the day of the 3rd and so the schedule would not  
13 suffer from their absence once I had met with them.

14 Q So that in other words, the arrangement to meet  
15 with them on the 3rd, the arrangement by way of  
16 scheduling was done on the 2nd at around 5 o'clock  
17 in the afternoon?

18 A Yes, sir.

19 Q Now, I think that we had completed, Mr. Bell, the  
20 discussion of the pilots and copilots meetings that  
21 were held on October 5th. There has been testimony  
22 here that there was a second similar meeting on  
23 October 19th. Now, let me ask you, do you recall  
24 that date at that specific event?

25 A Well, it was not a meeting. There was a ground

1 school class that day and the meeting was kind of an  
2 adjunct to it or an aside to the ground school classes  
3 I was conducting.

4 Q Do I understand then on October 19 that there was  
5 a ground school class scheduled for some time that  
6 day?

7 A Yes, there was.

8 Q And that ground school class would have been  
9 scheduled for what hour?

10 A Probably 9 or 10 in the morning, that would be my  
11 normal --

12 Q And October 19th was also a Saturday, was it?

13 A Yes, it would have been a Saturday.

14 Q And would that be a normal day for ground school  
15 instruction?

16 A Yes, I generally run ground school on the weekends.

17 Q Now, on that day were you to give the course of  
18 instruction, whatever it was to be?

19 A There were two instructors. There was myself and a  
20 Mr. William Heller who is a technical representative  
21 from the Garrett Corporation, and we were both present  
22 He was teaching the --

23 Q Now, you indicated that Mr. Heller was connected with  
24 the Garrett Corporation?

25 A Yes, sir.



1 Q Just so we will understand it, what is the Garrett  
2 Corporation?

3 A The Garrett Corporation builds the air reserve  
4 engine which is installed on the four-engine Metro.

5 Q And so would he have been what we might call a  
6 factory representative then of the people who built  
7 the engines for Metros?

8 A Yes, he was.

9 Q Had he been invited there in order to participate  
10 in that training, that ground training session?

11 A Yes, he had. I had asked him to join me in, particularly  
12 the engine phase of the systems course.

13 Q All right. Now, who was present at that ground  
14 training class other than you and Mr. Heller who  
15 were going to instruct?

16 A Well, from recollection, it was Mr. Larimore, Mr.  
17 Mc Dougald, Mr. Hummel, Captain Pusztai, probably  
18 Mr. Ton and one or two others, I don't recall.

19 Q And those people were people who were required to  
20 or least were taking this ground school course,  
21 would that be right?

22 A Yes, it was in conjunction with their upgrading into  
23 the Metro aircraft.

24 Q Had the class lecture, or however this school is  
25 conducted, had it begun that morning before anything

1 else happened?

2 A Yes, we had set up and gotten just started, I guess.

3 Q In your class?

4 A Yes.

5 Q And what happened then?

6 A Mr. Winston was either on the premises, I hadn't  
7 noticed, he was either on the premises or came to  
8 do some work, he came in and asked me if he could  
9 speak with the class a little bit.

10 Q All right. And following that, did he speak to the  
11 class on that occasion?

12 A Yes, he did.

13 Q And so that from your description of this, this was  
14 not a scheduled meeting of employees?

15 A No, it was scheduled basically as a classroom instruc-  
16 tion.

17 Q And the only people who were in attendance were the  
18 members of the class itself?

19 A That's right.

20 Q All right. Now, when Mr. Winston interrupted your  
21 class in the manner you described, did he thereafter  
22 speak to the people who were present at this meeting?

23 A Yes, he did.

24 Q And what did you and Mr. Heller do while that went  
25 on?

1 A Mr. Heller and I left the room and had a cup of  
2 coffee while he spoke with them.

3 Q Were you present at the time that he spoke?

4 A No, I wasn't.

5 Q And following Mr. Winston's talk, what happened at  
6 that time?

7 A He came out and advised us he was all through. He  
8 had said what he had to say and we resumed the  
9 ground instruction.

10 Q I see. And then the class continued on?

11 A The class continued on.

12 Q Now, did you address the people present at that time  
13 yourself other than your ground school instruction?

14 A No, I strictly talked ground school that day.

15 Q All right. Now, there came an occasion -- well, let  
16 me ask you, was Mr. Slough present at that ground  
17 school, do you recall?

18 A No, he wasn't. He had been in a previous school.

19 Q I see. Now, I would like to ask you, in connection  
20 with ground school training, not necessarily this  
21 particular meeting of October 19th, but in connection  
22 with ground school training, was there training  
23 directed toward the operation of Metro airplanes  
24 specifically?

25 A Yes, there was.



1 Q . And could you tell us the extent of ground school  
2 training that related directly to Metros?

3 A Well, there was a minimum of 20 classroom hours  
4 before the man was put into transition into flying  
5 transition in the airplane.

6 Q And the ground school that related to Metros, was  
7 that number of hours of course of instruction that  
8 was under your supervision?

9 A Yes, it was.

10 Q Did you give some of the instruction yourself?

11 A Yes, I did.

12 Q And were there factory representatives of the people  
13 or company or whatever it is that makes Metros,  
14 did they also participate in the ground school?

15 A Yes. Prior to this ground school you are referring  
16 to, we had had two factory schools where they gave  
17 approximately the same material that I gave for all  
18 our pilots.

19 Q And would Mr. Slough -- I am not sure whether Mr.  
20 Slough was captain or copilot.

21 A He was a copilot.

22 Q Was Mr. Slough present at the course of instruction  
23 that related to Metros that you have just told us  
24 about?

25 A He was in the second course I attended.

1 Q Now, as far as that course, did some phase of it  
2 relate to the door or doors on the Metro airplane?

3 A Yes, it did.

4 Q All right. And were there some instructions given  
5 during the course of the ground class relative to  
6 the procedure in opening doors on the Metro?

7 A Yes, there were.

8 Q Now, would you tell us what the instruction was with  
9 reference to that subject?

10 A Well, specifically, they instructed that the door  
11 be opened and lowered followed with the chains always.  
12 In other words, never trust a snubber. Always treat  
13 it as though it is going to fail.

14 Q Now, you are talking about a procedure, I take it,  
15 from the way you expressed yourself, of opening the  
16 door from the inside of the plane?

17 A That would be from the inside, yes, sir, or outside.  
18 It was discussed in both contexts.

19 Q Now, first of all, is the door of the Metro part of  
20 the structure of that plane?

21 A It is.

22 Q And in connection with compression of air, or however  
23 you properly speak of that, does it play an essential  
24 part in maintaining the proper pressure inside the  
plane?

1 A Yes, the door is sealed for pressure and it maintains  
2 the pressurization level of the cabin. In other  
3 words, if it is sealed properly and closed properly  
4 it keeps the cabin sealed up.

5 Q So that if a door is damaged or if it is rendered  
6 out of alignment, is it possible -- I suppose it is  
7 possible, but it is usual then to fly such a plane  
8 with a damaged door?

9 A No, sir.

10 Q And why would that not be so?

11 A Well, a door is a structural member. The structural  
12 loads of the aircraft are carried through that door,  
13 and if the door were damaged, it would just not be  
14 airworthy, really.

15 Q I see. So that damage to a door is a serious matter  
16 in that type of airplane, would that be right?

17 A Yes, it is.

18 Q Now, there has been testimony here with reference  
19 to opening a door from the inside and the procedure  
20 to be followed. You have indicated that in a ground  
21 school course there was something that was to be done  
22 with the chains. Are there chains on either side of  
23 the door?

24 A Yes, there are two main support chains on either side  
25 of the door.



1 Q And this door when it is opened and lowered to the  
2 ground, is that the stairway that is used by the  
3 passengers in leaving the airplane?

4 A Yes, it is.

5 Q These stairs are built in as part of the inside  
6 of that door, would that be right?

7 A That's right, it's called an air stair door.

8 Q So that whenever a stop is made in the travels  
9 of a Metro, a door is opened either for receiving  
10 or discharging passengers, would that be right?

11 A That would be right.

12 Q And you have indicated that the instruction was that  
13 these doors should be opened, and that whoever opened  
14 them should utilize the chain in some manner as though  
15 the door had no snubber attachment, would that be  
16 right?

17 A That would be right.

18 Q Now, the function of a snubber on the other hand  
19 is what?

20 A It is to lighten the load and cushion the lowering  
21 of the door.

22 Q And have you had occasions yourself in the course  
23 of your duties to open doors on Metros?

24 A Yes, I do regularly.

25 Q And would you describe to us how you do it?

1 A Yes, sir. Normally I would place my left hand along  
2 the left chain, swing the handle or bring my right  
3 hand to the handle and generally you follow the  
4 door out. That would be from the inside.

5 Q That would be from the inside. Now, would the weight  
6 of the door have a tendency to pull you out of the  
7 plane?

8 A Well, it certainly is exerting a force in that  
9 direction, but each time you raise the door you  
10 pull the same force of it, so it is not --

11 Q And when a door is opened and you want to close it,  
12 how do you do that?

13 A You simply pull up on the chains and pull it in.

14 Q I see. And that is the normal manner in closing  
15 a door on such a plane, would that be right?

16 A Yes, it is.

17 Q Now, there has been testimony during the trial here  
18 that Mr. Sholl was discharged on or about December  
19 9th of 1974.

20 A Yes, sir.

21 Q Were you present at the time he was discharged?

22 A No, I wasn't.

23 Q Did you have any conversation with him on the subject  
24 of his discharge?

25 A He stopped me approximately three or four days later.

1 Q But at the time he was discharged, did you participate  
2 in that in any fashion yourself?

3 A No, I didn't.

4 Q All right. Now, next in point of time there was  
5 testimony during the trial that Mr. Lamos was dis-  
6 charged on December 13th of 1974, and you will  
7 remember that there was testimony by Captain Lamos  
8 on the subject of refusing to test fly a plane.

9 A Yes, sir.

10 Q Let me ask you first of all, were you present at the  
11 time that he was discharged?

12 A No, I wasn't.

13 Q Where were you, if you can recall?

14 A I was on a flight somewhere and I don't recall where.

15 Q So that you were not even at the Binghamton area  
16 when all that occurred, would that be so?

17 A No, I wasn't.

18 Q And would it be correct that you heard of the events  
19 that did occur at some later time?

20 A Yes, I did.

21 Q Now, let me ask you, however, did the Commuter Airlines  
22 have some policy with reference to the test flying  
23 of airplanes that had been in the mechanical department  
24 for some type of repair?

25 A Yes, they did.



1 Q And how long has that custom or practice been in  
2 effect?

3 A Many years.

4 Q Would you tell us what it is, please?

5 A Well, basically, any repair that the mechanic feels  
6 that a test flight is in order, he can request one  
7 for any flight. There are certain repairs that are  
8 required by the FAA and others aren't, but the  
9 mechanic may request a test flight, the mechanic  
10 who does the repair, supervises the repair, may  
11 request a test flight for any repair.

12 Q Now, are you aware of what plane Mr. Lamos was asked  
13 to test fly?

14 A It was a Dumont.

15 Q A Dumont?

16 A A Dumont.

17 Q That is a nine-passenger plane?

18 A Yes, it is a Beachcraft.

19 Q And do you know that that was the plane that was  
20 scheduled to complete Mr. Lamos' flight?

21 A Yes.

22 Q From Newark to Binghamton, and the last leg of it  
23 from Binghamton to Elmira?

24 A Yes.

25 Q And you are familiar with that plane yourself, would

1           that be right?

2           A       Yes, I am.

3           Q       And would that have been the plane that he was  
4                   scheduled to fly as a result of scheduling the  
5                   previous day on that particular leg of his journey?

6           A       Normally it would have been, yes, his flight would  
7                   have been scheduled. The equipment change may have  
8                   come up that morning, I'm not certain about that.

9           Q       All right. Now, would you tell us what would be  
10                  involved with check flying that airplane under the  
11                  circumstances that existed here?

12          A       The particular test flight would have been very short  
13                  because it would be necessary to determine whether  
14                  the cylinder that had been replaced was breaking down  
15                  on takeoff, under takeoff power, and that would have  
16                  been asserted with five to seven minutes of actual  
17                  flying plus the time to get going and get back.

18          Q       Now, it has been referred to here as a procedure of  
19                  having somebody test fly an airplane during a 15-minute  
20                  rest period. I assume that the ordinary course of  
21                  events, people aren't asked to test fly an airplane  
22                  during a 15-minute rest period, would that be so?

23          A       That would be unusual.

24          Q       Okay. How long would it have taken to have test flown  
25                  that plane?

1 A Well, seven to eight minutes to warm it up and, say,  
2 ten minutes flying, being generous, and another two  
3 minutes back to the gate. I would think 20, 20  
4 minutes would have covered it from block to block.

5 Q All right. And was it customary -- I don't know  
6 whether I have asked you this, I don't want to  
7 repeat it if I have, but was it customary to assign  
8 a smaller plane where there would be only one or  
9 two passengers to carry on a particular leg of a  
10 trip?

11 A Yes, it was.

12 Q What is the reason for that?

13 A It is operational efficiency, basically.

14 Q Would it be more or less expensive to run a Metro  
15 from Binghamton to Elmira than it would to run a  
16 Dumont?

17 A It would be much more expensive to run a Metro.

18 Q It would be much more expensive to run a Metro?

19 A Yes.

20 Q And the Metro, of course, is a 19-passenger plane,  
21 would that be right?

22 A That's correct.

23 Q While the Dumont is a nine passenger?

24 A Yes.

25 Q And under the circumstances that Captain Lamos



1 described where he only had one passenger to go from  
2 Binghamton to Elmira, would it be normal procedure  
3 to use the smaller plane for that purpose?

4 A Yes, it would.

5 Q All right. But in any event, as I understand it,  
6 you had nothing to do with the transaction that  
7 culminated in his discharge on December 13th, would  
8 that be correct?

9 A No, I didn't.

10 Q All right. Now, you have told us that you did have  
11 some affirmative part in the discharge of Josephson,  
12 Slough and Baan on October 3rd. The next in point  
13 of time would be Mr. Williams whose date of dis-  
14 charge as I have it here was January 9th of 1975.  
15 Would that coincide with your recollection as to  
16 the approximate date?

17 A That sounds right.

18 Q So that that event was something that occurred three  
19 months after the termination of Josephson, Slough  
20 and Baan, would that be so?

21 A That would be correct.

22 Q All right. Now, did you have any discussion with  
23 Mr. Williams at the time of his discharge?

24 A I was present at the meeting. I don't recall any  
25 discussion on my part.

1 Q Now, Mr. Williams had been an employee of Commuter  
2 Airlines for about what period of time up to his  
3 discharge?

4 A Well, intermittently for, I guess, five years or  
5 something like that.

6 Q Was there a time when he was employed on a part-time  
7 basis?

8 A Yes, there was.

9 Q And then later a period when he was a full-time  
10 employee?

11 A Yes.

12 Q Was Mr. Williams from the Binghamton area?

13 A Yes, he was.

14 Q And did his family, his parents and so on live in  
15 the Binghamton area?

16 A Yes, they did.

17 Q Now, is he the man that you have told us represented  
18 the copilots at the meeting in October of '73?

19 A Yes, he did.

20 Q Where these wage increases were agreed upon and where  
21 this program of a three-year period of employment  
22 as a copilot before they attained their captains  
23 rate?

24 A That's right.

25 Q All right. Now, did there come a time in the year

1 1974 when there was some discussion between you and  
2 Mr. Williams on the subject of his obtaining his  
3 air transport rating?

4 A Yes, there was.

5 Q Could you tell us when that subject was first dis-  
6 cussed or about when?

7 A Early in the year, I don't recall the date.

8 Q Early in the year 1974?

9 A Yes, it was.

10 Q And what discussion was there on that subject?

11 A I talked to Mr. Williams in the light that he had  
12 frankly been with the company some time on a part  
13 and full time and he had achieved the uppermost grade  
14 in these grades that we had agreed to and there were  
15 no further increments in that, and that if he intended  
16 to become a captain with the company he was certainly  
17 going to have to become technically qualified, and  
18 that I suggested that he perhaps get to work on that  
19 program if he had any intentions along that line.

20 Q All right. Now, it was necessary, you said, that  
21 he become qualified. And were you speaking then about  
22 his obtaining his air transport rating?

23 A Yes, I was.

24 Q And that was a rating that he would have to obtain  
25 as a result of certain tests under the supervision



1 of the Federal Aviation Agency, would that be right?

2 A That would be correct.

3 Q And that wouldn't be something that you as a check  
4 pilot could confer on him?

5 A No, it couldn't.

6 Q Now, following that discussion that you just told  
7 us about early in the year, did Mr. Williams express  
8 an interest in attending some course of instruction  
9 that would tend to qualify him for that air transport  
10 rating?

11 A Yes, he did. He told me that the way he would go  
12 about it in his particular case was to go to Flight  
13 Safety where he had obtained some of his earlier  
14 ratings and he wanted to go to their Vero Beach,  
15 Florida installation to obtain the training for  
16 all phases of that course.

17 Q All right. Now, the name of this place that he  
18 wanted to go to in Florida was what?

19 A Flight Safety Incorporated.

20 Q Flight Safety Incorporated?

21 A Yes.

22 Q Was that some type of company or concern that gave  
23 instructions or courses specifically designed to  
24 qualify a person to attain their air transport  
25 rating?

1 A Yes, it was. They had a specific program for that  
2 rating.

3 Q And that was located where?

4 A Vero Beach, Florida.

5 Q Vero Beach, Florida. And did he indicate to you  
6 that he had attended that same concern's facilities  
7 on earlier occasions?

8 A Yes, he did.

9 Q All right. Now, did he tell you in that connection  
10 how long this course would extend that he desired  
11 to participate in?

12 A Well, he felt that he could accelerate it in two  
13 to three weeks maximum would be the length of time  
14 required.

15 Q And did he apply to you then for an extension or  
16 for a leave of absence for the purpose of attending  
17 that school?

18 A Yes, he did.

19 Q And did you grant that leave of absence?

20 A Yes, I did.

21 Q And the original leave of absence that you granted,  
22 that was for how long?

23 A Three weeks.

24 Q Three weeks. And then did Mr. Williams communicate  
25 with you at, or approximately at the end of this

1 three-week period?

2 A He called me to give me a progress report in a  
3 couple weeks.

4 Q All right. And what did he tell you in connection  
5 with his progress?

6 A Well, he wasn't doing too well. He had taken the  
7 written portion of the requirement and he hadn't  
8 passed that.

9 Q All right. And did he ask for an extension then  
10 of this leave of absence?

11 A He did have an indefinite --

12 Q And did you grant him a further extension or a  
13 further leave of absence?

14 A Yes, I said, well, you know, we will plan on a week  
15 or two more but keep me advised as to your progress.

16 Q Now then, did he again contact you after this first  
17 occasion?

18 A Yes, he did.

19 Q And can you recall about how long after it was that  
20 you heard from him the second time?

21 A Oh, probably a week, a week and a half.

22 Q And did he report to you as to his progress then?

23 A Well, he had then gotten a satisfactory grade on the  
24 written examination and he was starting his flight  
25 training, or had just begun his flight training at



1 the time he communicated with me.

2 Q All right. And was there any talk as to when he  
3 would now return to Binghamton?

4 A Well, he thought at that point that the flight  
5 shouldn't take much over a week or perhaps eight  
6 days, a day more than a week to complete that.

7 Q And sometime again then did he again contact you  
8 from Florida?

9 A Well, I think I had to call him. I called the  
10 registrar at the school to inquire about his progress  
11 and left a message for him to call me, and he did  
12 eventually get back to me, and he had flunked the  
13 oral phase of the qualification test.

14 Q Now, how long all told was Mr. Williams away for  
15 the purpose of at least attending that school in  
16 Florida?

17 A Well, it got to be, I guess, two and a half or three  
18 months before it was all said and done, I think.

19 Q So the original leave of absence of two or three  
20 weeks extended to substantially three months, would  
21 that be so?

22 A That would be so.

23 Q Did he then return to Binghamton and Commuter?

24 A Yes, he did.

25 Q And at that time were you advised that he had not

- 1                   been able to obtain his air transport rating?
- 2           A       Yes, I was.
- 3           Q       All right. And was there at that point some talk
- 4                   where he requested that you assist him with the
- 5                   instruction that would be necessary?
- 6           A       Yes, he spoke to me about completing the program
- 7                   in some manner at Binghamton.
- 8           Q       And did you agree that you would assist him?
- 9           A       I said I would pursue assisting him.
- 10          Q       All right. Now, at that point was there some dis-
- 11                  cussion as to what type of a plane he wanted this
- 12                  instruction in?
- 13          A       Yes, there was.
- 14          Q       And what was that?
- 15          A       That was in Aztec.
- 16          Q       In Aztec?
- 17          A       Yes, a Piper Aztec.
- 18          Q       That is a small plane, is it?
- 19          A       It is a small twin-engine plane.
- 20          Q       A small twin-engine plane. Now, did Commuter Airlines
- 21                  have in its fleet, if that is what you call it, such
- 22                  a plane?
- 23          A       Not at that time, no.
- 24          Q       And was there some talk first of his renting a plane
- 25                  from Commuter in order to pursue this instruction?



1 A It may have been discussed, but he felt that it would  
2 be too expensive and it was different from the  
3 planes he had been taking training leading to this  
4 rating in Florida in and it would be much more effi-  
5 cient, in fact, to lease an Aztec somewhere if he  
6 could.

7 Q All right. Now, what was done with reference to  
8 that?

9 A Well, we had a customer, a hangar tenant who had an  
10 Aztec and he asked me, Mr. Williams asked me if I  
11 would approach this customer in regards to him  
12 possibly leasing this airplane for a number of hours  
13 to complete his rating, his training for his rating  
14 and his flight test.

15 Q And did you approach this gentleman who owned that  
16 plane?

17 A Yes, I did.

18 Q And you had some talk with him?

19 A Yes, I did.

20 Q And did that person make the plane available for  
21 that training purpose?

22 A He said that he thought he would but he wanted Mr.  
23 Williams to talk to him himself in the arrangements.  
24 He didn't want me acting as intermediary. He would  
25 like to discuss it with him personally



1 Q Now, this person who owned the plane, was he,  
2 apparently, acquainted with Mr. Williams and Mr.  
3 Williams with him?

4 A He had evidentl. done business with Mr. Williams'  
5 father, I believe.

6 Q And did you notify then Mr. Williams that this  
7 gentleman who owned the plane wanted to talk directly  
8 to him?

9 A Yes, I did.

10 Q And did you ever hear anything more from either  
11 the tenant who owned the plane or from Mr. Williams  
12 further about that plane?

13 A No, I didn't.

14 Q Or further about any assistance from you in completing  
15 his qualifications for his rating?

16 A No, I didn't hear another word about it.

17 Q Was there any time in point of all this, was there  
18 any point when you refused to assist him in that  
19 regard?

20 A No, there was not.

21 Q Now, you indicated that when Mr. Williams was ter-  
22 minated on January 9th, '75, or about that time,  
23 you were present?

24 A Yes, I was.

25 Q Will you tell us what transpired at that time?

1 A He was called into the office and it was indicated  
2 to him that he had not gotten the ATT and he didn't  
3 seem to be very interested in flying or getting  
4 ahead in flying as a career or getting ahead in the  
5 organization, and that his services were being  
6 terminated.

7 Q Now, following his return from Florida, there was a  
8 time, was there not, when he was assigned as a  
9 coordinator dispatcher, was that the title?

10 A That was the term, yes, sir.

11 Q Do you recall when that occurred that he was assigned  
12 to that?

13 A I believe in early October, as I recall.

14 Q There was an exhibit here in the form of a letter.

15 A Yes, it was effective as of the date of that letter.

16 Q So that he was assigned to those duties at about  
17 the same time that letter is dated?

18 A That's correct.

19 Q All right. And then how long -- well, first of all,  
20 what did that amount to?

21 A It amounted to making some coordination to the  
22 morning flight schedules with the connecting flights,  
23 from Elmira. It was hoped to smooth the connection  
24 for the passengers and the crews so that the flight  
25 could flow through Binghamton smoothly without delay



1 and so forth.

2 Q And in that connection with that work, was he also  
3 assigned to some flight that was known as Flight  
4 150, 151, a flight to Newark and return?

5 A Well, Flight 150 was a flight that left in the  
6 9:30, 10 o'clock range and it was a trip to Washing-  
7 ton. And it was felt that while we were trying him  
8 on that duty, if he flew that flight he would have  
9 a flight every day, and of course, his duties as  
10 a coordinator dispatcher would no longer be required  
11 at the time that flight left. There would no longer  
12 be the need for the coordination that there was in  
13 the early morning hours.

14 Q Now, have you checked the flight records of the  
15 company to ascertain how much he did fly after he  
16 was assigned to this coordinator dispatch position?

17 A Yes.

18 Q And in the two months period following that designation,  
19 how much did he fly?

20 A I think a total of seven flights.

21 Q A total of seven flights?

22 A Yes, sir.

23 Q So that he did not regularly take this Flight 150,  
24 151 to Washington that you have just talked about?

25 A No.



1 Q All right. Now, at the time that he was terminated  
2 in January of '75, was he still doing that coordinating  
3 dispatcher work?

4 A No, he wasn't.

5 Q Did there come a time when that work terminated?

6 A Yes, about the 1st of December that work terminated.

7 Q All right. And what were the circumstances of that?

8 A Well, Mr. Winston had advised me that he was not  
9 happy with the efficiency of his dispatching, that  
10 he was frankly running some very inefficient opera-  
11 tions, and that I should put him back on the line as  
12 a standard line copilot, and that is what I did.

13 Q All right. So that that was his work thereafter from  
14 the early part of December until his discharge,  
15 regular copilot duties?

16 A Yes, it was.

17 Q And did that entail any dispatching duties at work?

18 A No, it didn't.

19 Q Now, I don't know but what I may have interrupted  
20 you, I'm not sure that I did. Did you tell us every-  
21 thing that occurred in connection with your talk  
22 with Mr. Williams on the matter of terminating him?

23 A I believe I did, sir.

24 Q All right. And now, the next two terminations that  
25 are referred to in this case are the termination of

1 Mr. Larimore and Mr. Hummel around the 17th or 19th  
2 of February of 1975.

3 A Yes.

4 Q This now some four or five months after the initial  
5 discharge of Josephson, Slough and Baan.

6 A Yes, sir.

7 Q Now, these men, Larimore and Hummel, were terminated  
8 on or about that time, were they?

9 A Yes, they were.

10 Q Now, previous to their termination, the termination  
11 of their employment, did you have some talk with Mr.  
12 Winston on that subject?

13 A Yes, I did.

14 Q And do you recall how long before the actual termina-  
15 tion or about when you had a meeting with Mr. Winston  
16 on that subject?

17 A Oh, a few days in advance. I don't recall the length  
18 of time.

19 Q That would be a few days in advance of mid-February?

20 A Yes.

21 Q 1975?

22 A Right.

23 Q And would you tell us about your meeting with Mr.  
24 Winston, what was said to you and what was said by  
25 you?

1 A Well, Mr. Winston informed me that our flying was  
2 down, that we were still overstaffed as far as  
3 several departments of the company, that he wanted  
4 to accomplish a further reduction in force and that  
5 he was going to reduce by certain individuals, and  
6 he informed me who they would be.

7 Q And did he inform you that Mr. Larimore and Mr.  
8 Hummel were to be terminated?

9 A Yes, he did.

10 Q Now, let me ask you, in the year of 1970, did  
11 Commuter Airlines have some contract for charter  
12 transportation of IBM employees?

13 A In 1970?

14 Q 1974.

15 A 1974, yes, they did.

16 Q And was that arrangement in the form of a contract  
17 between IBM and Commuter Airlines or Broome County  
18 Aviation?

19 A Yes, it was.

20 Q And was that a fairly substantial transportation  
21 contract?

22 A Yes, it was.

23 Q And did it involve, in the year 1974, a considerable  
24 sum of money?

25 A Yes, it would have.



1 Q Now, in the year of 1975, had that arrangement with  
2 IBM been renewed or extended from 1974 into 1975?

3 A I believe it was extended.

4 Q And had there been some -- well, had the original  
5 contract or the 1974 contract with IBM, had that  
6 terminated by February of '75?

7 A I think the period of it had terminated, yes.

8 Q And did Commuter rebid for that IBM business?

9 A Yes.

10 Q For the year of '75?

11 A They did.

12 Q And did Commuter Airlines obtain that IBM business  
13 for the year of '75?

14 A On a much reduced level from previously.

15 Q And was the amount of travel contracted for by  
16 IBM considerably curtailed for the year '75 over  
17 what it had been in '74?

18 A Yes, it was.

19 Q Now, in addition to IBM, was there some other large  
20 corporation for which Commuter was flying in '74 but  
21 not in '75?

22 A There was a large customer that we were --

23 Q What was the name of that customer?

24 A Well, the Public Loan Firm, we had done a lot of  
25 flying for them and we were doing --

1 Q Was that a concern in business in the Binghamton  
2 area?

3 A Their home office was.

4 Q Their home office was in Binghamton, all right. And  
5 did Commuter have that business for the year 1975?

6 A No, they did not.

7 Q They did not have that business?

8 A They did not have the business.

9 Q Now, at the time that Mr. Winston talked to you about  
10 terminating Mr. Larimore and Mr. Hummel, that was  
11 the status so far as those corporate contracts were  
12 concerned, what you have just described to us, would  
13 that be so?

14 A That's right.

15 Q And did you talk with Mr. Larimore first in connection  
16 with his termination?

17 A I asked him to come to the airport for a meeting.

18 Q And did he come to the airport and meet with you?

19 A Yes, he did.

20 Q And was that on or about February 17th of 1975?

21 A I believe so, yes, sir.

22 Q And did you have some conversation with him at that  
23 time?

24 A Just briefly, I asked him to come into the office,  
25 into Mr. Winston's office and ushered him in, more

1 or less, and that was it.

2 Q Did you have any talk with Mr. Larimore in terminating  
3 his employment, or was that talk between him and  
4 Mr. Winston?

5 A That talk was basically between he and Mr. Winston

6 Q And you did not participate in that?

7 A No, I didn't.

8 Q Do you recall, were you present at the time?

9 A I believe I was.

10 Q Do you recall what the conversation consisted of?

11 A Basically, Mr. Winston conveyed to him that these  
12 matters of lost business and so forth and that it  
13 was necessary to cut back and he had been selected  
14 as a part of that cutback.

15 Q Was there any further discussion at that time?

16 A There was some discussion back and forth, yes.

17 Q With Mr. Hummel, did you carry on whatever conver-  
18 sation there was in connection with his termination?

19 A No, I didn't.

20 Q You notified him to come in and he talked directly  
21 to Mr. Winston, did he?

22 A Yes, he did.

23 Q And I think you testified you were not even present  
24 at the time, is that the fact, you were or were not  
25 present?



1 A I believe I was present.

2 Q Do you recall the conversation that ensued between  
3 Mr. Winston and Mr. Hummel at that point?

4 A Mr. Winston had explained the circumstances very  
5 similar to what he had explained to Mr. Larimore, and  
6 Mr. Hummel became somewhat upset, as I recall and  
7 indicated that he felt that he was being terminated  
8 for union activity, and that he said chat he would  
9 get him, and he went into some terms of going here  
10 and there and doing this and that in order to accomplish  
11 that.

12 Q Did you take part in that conversation yourself,  
13 Mr. Bell?

14 A No, I didn't.

15 Q You were simply present when it occurred with that  
16 result?

17 A Yes.

18 MR. SHANAHAN: I think, your Honor,  
19 that completes my direct examination.

20 MR. RICHARDS: Your Honor, may  
21 I have a -- I realize it is not cross-examination.

22 THE COURT: Go ahead if you wish  
23 to cross-examine.

24 MR. RICHARDS: All right, thank  
25 you.

## CROSS-EXAMINATION

BY MR. RICHARDS:

Q Mr. Bell, I understand your testimony at the time before the dismissal of Slough, Josephson and Baan, you consulted with Mr. Winston as to those employees who should be discharged from the staff, is that correct?

A Yes, we discussed it.

Q And at that time did you take into account the performance of those pilots you intended to discharge?

A Yes.

Q And in your capacity as chief pilot, would there be reported to you any actions on the part of the pilots which either violated company rules or complaints being given to you by other pilots?

A Yes, I would hear those things.

Q Now, in regard to Slough, did you receive any other pilots complaints of his nonavailability?

A Well, there was one occasion when I had attempted to reach him. This was after he was in the Elmira domicile, and we were unable to reach him, and I turned the matter over to Captain Reeve and he got no satisfaction, really, either, so he told me he could get no satisfactory answer on the problem.

Q In addition to that, did you yourself have an incident



1 with Slough when it was necessary for you to take an  
2 aircraft from Binghamton to Elmira and found the  
3 wrong passenger count in Elmira?

4 A Yes, I did.

5 Q Would you briefly explain that incident to the jury?

6 A There had been a schedule change and Captain Reeve  
7 hadn't been notified for some reason, and Mr. Slough  
8 called approximately between ten and twenty minutes  
9 ahead of the flight and said, "Gee, my captain isn't  
10 here. What do I do?" And being rather close, I said,  
11 "We'll send an airplane over with a crew. Give us  
12 a firm count of check ins." And so he said he would  
13 be back in ten minutes with that count. I was there  
14 on the premises so I said I would go get the passengers.  
15 He got back within ten minutes of the flight time and  
16 I said, is he sure that count is right and tell him  
17 to have the people all ready to board, I will be  
18 there in 12 minutes. And at that point I took off  
19 to fly to Elmira.

20 Q And after the arrival at Elmira, what did you find  
21 out?

22 A Well, I got to Elmira and Mr. Slough was in the  
23 concourse with some passengers. I didn't count them.  
24 I said, "You have them all ready to board, Bob?"  
25 And he said, "Yes, I do." I said, "Fine, I'll load



1 the luggage while you board the passengers." And I  
2 went around to the opposite side of the airplane  
3 where in that particular airplane the baggage door  
4 is located,, and I started to load bags as passengers  
5 boarded. I reached beneath the airplane and pulled  
6 the bags under and I was loading them up into the  
7 baggage department and I became aware of a little  
8 commotion on the other side of the airplane. When  
9 I got around there I found that I had ten passengers  
10 in a nine-passenger airplane.

11 Q Now, you had flown in a Dumont to Elmira, is that  
12 correct?

13 A That's correct.

14 Q And that airplane would only hold nine passengers?

15 A That's right.

16 Q Now, what did you do with the tenth passenger?

17 A We ended up having to reroute him on an Allegheny  
18 flight, as I recall.

19 Q Did you have any discussion with Slough as to why  
20 there was ten instead of nine passengers?

21 A Yes, I asked him about that.

22 Q What did he say?

23 A He really didn't give me any answer. He said, "I  
24 just don't know."

25 Q Now, with regard to Josephson, did you receive any

1 report from any pilot as to Josephson reluctance  
2 to take off in bad weather?

3 A Yes, Captain Solberg had advised me earlier that he  
4 had refused to get back in the plane with him on an  
5 occasion.

6 MR. CHALENSKI: May we have the  
7 date of these conversations?

8 BY MR. RICHARDS:

9 Q Do you recall the time when Solberg spoke to you about  
10 this incident?

11 A It runs in my mind, it was during the summer of 1974.

12 Q And what was the report Solberg gave you concerning  
13 this incident?

14 A He said that he gotten in and there was some heavy  
15 weather in the vicinity of Newark Airport and he had  
16 managed to get himself in there with a relatively  
17 smooth trip, and that when he got on the ground, that  
18 Mr. Josephson had become very excited and had, in  
19 essence, refused to fly the return trip with him.

20 Q Now, Mr. Bell, who is responsible for making that  
21 decision as to whether or not the aircraft flies?

22 A That is the captain's decision.

23 Q And does the copilot have any say as to when that  
24 aircraft takes off?

25 A Normally not. It is the captain's responsibility.



1 Q Did you have occasion to speak with Josephson regarding  
2 this incident?

3 A I did mention it to him.

4 Q Did he have any explanation?

5 A No, he just told me how terrible the weather was.

6 Q Now, did you receive any further complaints from  
7 other pilots regarding Josephson's changing duty  
8 rosters?

9 A Yes, I did.

10 Q And to the best of your ability, would you give the  
11 approximate date and who reported it to you and the  
12 nature of the incident?

13 A It was in the early part of 1974, as I recall, and  
14 it was First Officer Leonard informed me that Mr.  
15 Josephson had amended a schedule, called him and  
16 told him that I had changed it, and when in fact,  
17 I hadn't. Mr. Leonard asked me if I had changed it  
18 and I told him I had not.

19 Q And did you subsequently investigate to determine  
20 who had changed the roster?

21 A Yes, I did.

22 Q And who had changed the duty roster?

23 A Ira Josephson had changed it.

24 Q Were there more than one incident where he had  
25 changed the duty roster?



1 A That was the only specific one that I can recall.

2 Q Now, did Mr. Josephson also have some administrative  
3 responsibility with Commuter?

4 A Yes, he had some duties he was assigned.

5 Q Did these responsibilities include maintaining the  
6 Air Canada Manual?

7 A The Canada Air Pilot, yes, it did.

8 Q Sorry, the Canada Air Pilot Manual. And would you  
9 just briefly explain what that manual is and how it  
10 helps the pilots?

11 A Well, it is a book of instrument approach procedures  
12 for the eastern half of Canada which the company  
13 conducts some operations into on an occasional basis,  
14 and it is a service that is checked out on a library  
15 basis by crews going into Canada on flights, and it  
16 is assigned to a first officer for its upkeep of  
17 revisions. It gives the pilot the procedures under  
18 instrument weather conditions at the various airports  
19 as well as certain other airport data.

20 Q Now, did Mr. Josephson maintain this manual to your  
21 satisfaction?

22 A No, he didn't.

23 Q Did you have occasion to speak to him about it?

24 A I spoke to Captain Harrington about that because I  
25 noticed that the mailbox for it was brimming over with

1 revisions that had not in fact been posted in the  
2 manual, and I asked him to find out what the problem  
3 was on that Canada Air Pilot.

4 Q Was it the policy of the company and was it Josephson's  
5 instructions to keep this manual current with  
6 revisions?

7 A Yes, it was.

8 Q Now, did you yourself have any opinion as chief pilot  
9 of the concern as to the proficiency of Josephson  
10 as a pilot?

11 A As far as his flying, he was average, he was satis-  
12 factory. He was average, I suppose in competency.

13 Q Isn't it true, Mr. Bell, that prior to Josephson's  
14 termination, you actually recommended to Winston that  
15 he be discharged?

16 A Yes, I did.

17 Q And do you know how many occasions you might have  
18 mentioned this to Winston?

19 A Two or three, at least.

20 Q And the first occasion you mentioned it to Winston,  
21 what was the reaction to your request that he be  
22 discharged?

23 A Well, he felt that there --

24 MR. CHALENSKI: May we have dates  
25 on this, please?



1 BY MR. RICHARDS:

2 Q Do you have an approximate time, Mr. Bell?

3 A I would think spring 1974.

4 Q You may go on.

5 Q I indicated that I was having problems scheduling a  
6 man. I think it was probably after my conversation  
7 with Mr. Leonard, and I felt that working with him  
8 made somewhat excessive demands on my other copilots  
9 because he seemed to be an exception to every require-  
10 ment that we set forth and it was getting to be quite  
11 a problem to work around his scheduling needs really.

12 Q And what did Mr. Winston say?

13 A He said that he felt that he would speak with him,  
14 that he felt he was a very talented young man and  
15 he had some thoughts on using him in perhaps an  
16 administrative capacity eventually with the company.

17 Q Was that the only time you talked to Winston about  
18 the discharge of Josephson?

19 A No, I talked to him again during the summer of '74.

20 Q And again, what was your request?

21 A I requested that we replace him with somebody else  
22 at that time.

23 Q And what was Winston's reaction?

24 A It was very similar to the first time that we discussed  
25 the matter.



1 Q Now, when did Commuter start this Elmira operation?

2 A It was during the late summer or fall, I believe it  
3 was September, to my recollection, of --

4 Q '74?

5 A '74.

6 Q Well, was there a time just after that operation was  
7 started when Josephson was being considered for  
8 transfer to the Elmira operation?

9 A Yes, there was.

10 Q And you were familiar with this transfer to be made,  
11 of course?

12 A Yes, he had requested that he be considered for it.

13 Q Josephson requested that he be considered for a  
14 transfer?

15 A Yes, he did.

16 Q And did you at that time solicit recommendations  
17 from other captains regarding this request by  
18 Josephson to be transferred?

19 A I talked to the captains that would be involved  
20 in that operation and to the senior copilot who was  
21 already selected.

22 Q And who were those captains and senior copilot?

23 A That was Captain Solberg, Captain Lamos and Captain  
24 Reeve.

25 Q Now, what did Mr. Solberg say regarding the transfer

1                   cf Josephson to Elmira?

2           A       He didn't want me to do it.

3           Q       Did he indicate any reasons why he didn't want it?

4           A       Well, he referred back to his earlier experience with  
5                   him on a flight and he felt that he would create a  
6                   lot of problems in the domicile, that they had  
7                   enough problems starting off a new operation without  
8                   his disruption that he was reputed for.

9                               THE COURT:   How much longer do  
10                   you expect to be?  We are going into the lunch hour  
11                   here.

12                           MR. RICHARDS:  Probably quite a  
13                   bit, Judge.

14                           THE COURT:  All right, we will  
15                   recess now for half an hour.

16                                       (A luncheon recess was taken.)

17                                       (Trial resumes.)

18                           MR. RICHARDS:  Your Honor, may we  
19                   approach the bench?

20                           THE COURT:  Surely.

21                                       (Discussion off the record.)

22                           MR. CHALENSKI:  Your Honor, the  
23                   Government has prepared a slightly modified Exhibit  
24                   39A.  39 was offered last night.  The Government  
25                   at this time offers Modified Exhibit 39A in evidence.



1 THE COURT: I take it is a summary  
2 schedule of early evidence?

3 MR. CHALENSKI: Yes, your Honor,  
4 it shows the evidence testified to by Mr. Briggs  
5 and Mr. Solberg as to whether the employees who left  
6 from 1971 until October 2nd, 1974 were quit or  
7 terminated and where the company records show whether  
8 it was a quit or termination is also shown.

9 THE COURT: Any objection?

10 MR. RICHARDS: The only objection  
11 which may go to the weight of it is that we have  
12 found several discrepancies in the exhibit. We  
13 will be in a position to offer our own evidence.

14 THE COURT: I will take them, and  
15 we will receive the exhibit. You are free, of course,  
16 to dispute any testimony in it.

17 MR. CHALENSKI: We also offer  
18 Exhibit 40, your Honor.

19 THE COURT: And I would say to the  
20 jury that these schedules are received merely because  
21 of a convenience to you. They are no better than the  
22 underlying testimony or exhibits on which they are  
23 based.

24 (Government Exhibits 39A and 40  
25 received in evidence.)



1 THE COURT: We are going to take  
2 a witness out of turn now. The Government rests now,  
3 I take it?

4 MR. CHALENSKI: Yes, your Honor.

5 THE COURT: All right, Mr. Richards  
6 we will call your witness out of turn for the con-  
7 venience of the witness.

8 CHARLES G. O'NEIL,  
9 having been called as a witness on behalf of Defendants  
10 Winston, Commuter Airlines and Broome County Aviation,  
11 having been first duly sworn according to law, testified  
12 as follows:

13 DIRECT EXAMINATION

14 BY MR. RICHARDS:

15 Q Mr. O'Neil, may we have your full name and address,  
16 please?

17 A It is Charles G. O'Neil, 175 Hillary Drive, Rochester,  
18 New York.

19 Q And for whom are you employed?

20 A I work for the Government, for the Federal Aviation  
21 Administration.

22 Q And how long have you worked for the Government?

23 A Almost nine years for the Federal Aviation Administra-  
24 tion.

25 Q Now, in the spring of '75, in what capacity were you

1 working for the Federal Aviation Administration?

2 A I was the principal operations inspector for the  
3 Rochester Flight Standards District Office.

4 Q And generally, what would those duties entail?

5 A My position was to head up the operations unit of  
6 that district office which included air taxi schools,  
7 pilot certification and so forth.

8 Q And in your capacity, would you also be responsible  
9 for investigating damage to aircrafts owned by  
10 independent airlines?

11 A That would be part of the function of the office,  
12 not specifically mine, but the general function.

13 Q Now, are you familiar with the airlines, Commuter  
14 Airlines in Binghamton?

15 A Yes, I am.

16 Q And do you recall an occasion in the spring of '75  
17 when you were on the premises of Commuter Airlines?

18 A Yes.

19 Q And at that time was there brought to your attention  
20 a broken door handle?

21 A Yes, there was.

22 Q And this door handle was purported to have been taken  
23 off a Metro aircraft?

24 A Correct.

25

THE CLERK: Defendant's Exhibits



1 N, O and P marked for identification.

2 THE COURT: When was this?

3 THE WITNESS: This was in the  
4 spring of 1975. I believe it was April.

5 BY MR. RICHARDS:

6 Q Mr. O'Neil, I show you Defendant's Exhibit P marked  
7 for identification and ask you if you can identify  
8 that item.

9 A Yes, as near as I can recall, this would be the  
10 door handle I was shown at that time.

11 Q Now, at the time you investigated this door handle,  
12 were there any other FAA representatives with you?

13 A Yes, we were down there in the performance of a  
14 basic inspection and usually with a team effort.

15 Q You don't recall how many representatives were with  
16 you at the time, do you?

17 A I believe it was five of us altogether.

18 Q And at the time you investigated this handle, were  
19 you told the manner in which the handle allegedly  
20 was broken?

21 A Yes, I was.

22 Q And would you relate to the Court and jury what you  
23 were told regarding the incident in which the handle  
24 was broken?

25 MR. CHALENSKI: Objection, your



1 Honor. There is no --

2 THE COURT: Sustained.

3 Q And as a result of your investigation concerning this  
4 handle, did you draw any conclusions as to the manner  
5 in which the handle was broken?

6 MR. CHALENSKI: Objection, your  
7 Honor, as to relevancy. There is no showing that  
8 this handle has anything to do with the case.

9 THE COURT: You haven't connected  
10 this handle to any --

11 MR. RICHARDS: Your Honor, could  
12 I continue this line of testimony subject to being  
13 connected up?

14 THE COURT: All right, we will take  
15 it subject to connection.

16 BY MR. RICHARDS:

17 Q You may answer, Mr. --

18 A Wou'd you repeat the question?

19 (The pending question was read  
20 back by the reporter.)

21 MR. CHALENSKI: Your Honor, I  
22 object on the grounds the witness has not been  
23 qualified as an expert.

24 THE COURT: Sustained.

25 BY MR. RICHARDS:

1 Q All right. Now, Mr. O'Neil, what is your aviation  
2 background?

3 A How long have I been flying, what I have been doing?

4 Q Yes.

5 A I have been a commercial pilot flight instructor  
6 for 30 years and worked in industry, fixed base  
7 operations, scheduled airliners, Federal Aviation  
8 administration for a period of time, corporation  
9 pilot.

10 Q Have you received any certification or rating from  
11 the FAA regarding your pilot background?

12 A Yes, I have.

13 Q And would you identify those ratings?

14 A My aviation rating issued by the Government?

15 Q Yes.

16 A I am an air transport pilot and also a certified  
17 mechanic, ground instructor and --

18 Q And in your capacity as a certified mechanic, have  
19 you had occasion to examine parts of aircraft to  
20 determine the manner in which they are not operating?

21 A That would be part of the normal procedure.

22 Q Are you familiar with the Metro aircraft manufactured  
23 by Vear?

24 A Yes I am.

25 Q And are you more specifically familiar with the type



1 of door and stairs leading out of the aircraft?

2 A Yes, I am.

3 Q And does your familiarity extend to the manner in  
4 which the snubber system and handle operates on that  
5 aircraft?

6 A Yes.

7 Q And can you identify that particular exhibit as being  
8 a snubber handle situated on a Metro aircraft?

9 A Yes.

10 Q Now, Mr. O'Neil, I would ask you if you drew any  
11 conclusions after reviewing that handle as to the  
12 manner in which the accident happened?

13 MR. CHALENSKI: Your Honor, I  
14 renew my objection. The witness has testified that  
15 he is competent to decide when a part is not working,  
16 but not to determine how it got that way.

17 THE COURT: Well, there is no  
18 evidence at all about how an accident happened.  
19 Maybe you can tell us how that broke if you know  
20 or whatever. What is wrong with the handle, anything?

21 THE WITNESS: Yes.

22 THE COURT: Tell us what is wrong  
23 with it.

24 THE WITNESS: Well, the handle  
25 has received damage, and is broken.



1 BY MR. RICHARDS:

2 Q Now, as a result of your review of that handle, did  
3 you in your capacity, or did your department in their  
4 capacity, forward a letter to the Federal Bureau of  
5 Investigation setting forth your conclusions as to  
6 your investigation?

7 A Yes, we did.

8 Q And I show you Defendant's N marked for identification  
9 and ask you if that was a letter which you forwarded  
10 to the FBI?

11 A Yes, I would say this was the letter we sent.

12 Q That particular document, is that in the files of  
13 the FAA?

14 A Yes, it would be in the Rochester district office.

15 Q And are these files kept in the regular course of  
16 business?

17 A Oh, absolutely.

18 MR. RICHARDS: I would like to  
19 proffer Defendant's Exhibit N into evidence, your  
20 Honor.

21 MR. CHALENSKI: Your Honor, on  
22 the basis that there is no showing that -- excuse  
23 me, that the person testified that it is hearsay,  
24 that it would be -- it is a report that would be  
25 similar to a police department accident report.

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THE COURT: Overruled.

(Defendant's Exhibit N for  
identification received in evidence.)

MR. RICHARDS: Your Honor, may I  
read the first paragraph of this exhibit to the jury?

THE COURT: Yes.

MR. RICHARDS: This is a letter  
dated April 30th, 1975 addressed to Mr. A. Kennedy,  
Federal Bureau of Investigation, P.O. Box 1229,  
Albany, New York, Zip Code 12201. "Reference:  
Alleged sabotage, Commuter Airlines, Binghamton,  
New York. Dear Mr. Kennedy, on April 17th, 1975  
while conducting an air taxi inspection of Commuter  
Airlines, Incorporated, Mr. Jerry Winston, president  
of Commuter, brought to my attention two items which  
he believed to be sabotage. I do not know if any  
of these two acts were willful, but in my opinion,  
the broken door handle could not be caused by the  
action described by the copilot. The break in the  
handle was in the opposite direction from the door  
and the upper attached point was bent upwards away  
from the direction the door descends. In my opinion,  
the failure was not caused by normal wear or use.  
The rubber door seal at the rear cargo door was a  
fairly new seal. The rubber was aligned with no signs



1 of weather checking. The holes in the seals looked  
2 to me to be caused by a small sharp object. The  
3 basis for this reasoning is that the rear holes are  
4 completely through the seal and are matched directly  
5 with the entry. In my opinion, the outside holes  
6 are not a result of normal wear and use. Sincerely,  
7 E.L. Berona."

8 BY MR. RICHARDS:

9 Q Mr. O'Neil, what you have in your hand there, the  
10 door handle, marked as Defendant's Exhibit P, is  
11 that door handle in the condition you saw it in  
12 April of '75?

13 A Yes, I would say it was.

14 Q Now, in the course of your investigation, did you --

15 THE COURT: When did this damage  
16 occur?

17 THE WITNESS: When did it occur?

18 THE COURT: Yes.

19 THE WITNESS: I was informed that  
20 it had occurred sometime prior to our inspection.

21 THE COURT: How much prior to it?

22 THE WITNESS: That, I would estimate,  
23 possibly the prior month. I mean --

24 THE COURT: But are you just  
25 guessing? Do you know where this handle was kept from



1 the time it was allegedly damaged until the time you  
2 inspected it?

3 THE WITNESS: No, sir.

4 THE COURT: You don't know whose  
5 possession it was in or anything else?

6 THE WITNESS: I assume it was in  
7 the possession --

8 THE COURT: But you don't know?

9 THE WITNESS: No, sir.

10 THE COURT: I don't want your  
11 assumptions.

12 THE WITNESS: No, sir.

13 THE COURT: You are not here to  
14 guess what happened.

15 BY MR. RICHARDS:

16 Q Now, Mr. O'Neil, in the course of your investigation,  
17 did you request Commuter Airlines or Mr. Winston,  
18 specifically, to write regarding the circumstances  
19 by which that door handle was broken?

20 A Yes, sir, we did.

21 Q And I show you Defendant's Exhibit O marked for  
22 identification and ask you if you can identify that  
23 document?

24 A This was a letter that we received from Mr. Winston.

25 Q Now, is that particular document kept in the files of

1 the FAA?

2 A Yes, it would be. All correspondence would be kept.

3 Q And that document is kept in the regular course of  
4 business of that department, is that correct?

5 A Yes, sir.

6 Q And that document was received by you prior to the  
7 time you rendered your opinion, the letter I earlier  
8 read?

9 A Yes, sir, the date on the other letter was later than  
10 this.

11 MR. RICHARDS: I would like to  
12 move Defendant's Exhibit O into evidence.

13 MR. CHALENSKI: Can I have one  
14 question, your Honor?

15 THE COURT: Proceed.

16 PRELIMINARY EXAMINATION

17 BY MR. CHALENSKI:

18 Q Mr. O'Neil, is this document made in the regular  
19 course of business of the FAA?

20 A What document is that, sir?

21 Q Exhibit O.

22 A Could I see it?

23 Q It is the one that was just handed to you, a letter  
24 from the defendant.

25 A We received that.



1 Q Did you make that letter?

2 A No, this was not the letter that we wrote. This  
3 was a letter that Mr. Winston wrote to us.

4 MR. CHALENSKI: I object to it,  
5 your Honor.

6 THE COURT: Overruled. Is it part  
7 of the business to seek that report, seek that  
8 information, is that part of your business?

9 THE WITNESS: Part of our --

10 THE COURT: Is it part of your  
11 job to seek these explanations?

12 THE WITNESS: Aviation safety, we  
13 are charged with that responsibility, sir.

14 THE COURT: Well, can you answer  
15 my question? Is it part of your job?

16 THE WITNESS: I would say yes,  
17 yes.

18 THE COURT: Overruled.

19 MR. CHALENSKI: May I have one  
20 other question, your Honor.

21 THE COURT: Yes.

22 BY MR. CHALENSKI:

23 Q When are these reports to be submitted concerning  
24 damage to aircraft?

25 A When?



1 Q Yes.

2 A When it becomes known, we would want to know if there  
3 were, you know, damage to aircraft because it is our  
4 charge and our responsibility.

5 THE COURT: What do you mean,  
6 when in relation to the damage?

7 A (Continuing) Oh, there is no -- you mean like two  
8 hours after, ten days later, something like that?  
9 No, there is no hard and fast rule for that.

10 Q Four months later, is that acceptable?

11 A It wouldn't be appropriate, I would say.

12 Q It would not be appropriate?

13 A No.

14 MR. CHALENSKI: Your Honor, this  
15 letter is dated April 18th, 1975 and purports to  
16 relate to damage on December 13th, 1974, more than  
17 four months before.

18 THE COURT: Well, I think that  
19 may go to its weight, to its value, but not to its  
20 admissibility. I will receive it.

21 THE WITNESS: Could I make a  
22 statement to clarify that?

23 THE COURT: No.

24 (Defendant's Exhibit O for  
25 identification received in evidence.)

## DIRECT EXAMINATION (Continued)

BY MR. RICHARDS:

Q One more question. What statement did you want to make, Mr. O'Neil?

A Well, I just wanted to state that we were probably aware of this before the letter was written.

Q Okay.

THE COURT: Do you have any record that you were aware of it?

THE WITNESS: I would have to check our files.

THE COURT: You don't know you were aware of it?

THE WITNESS: No, sir.

THE COURT: Quit telling us what you guess and what might probably be so, what you think might be so.

MR. RICHARDS: No further questions.

THE COURT: Go ahead, Mr. Chalenski.

## CROSS-EXAMINATION

BY MR. CHALENSKI:

Q As I understand it, this is a door handle to which a snubber is attached on a Metro airliner, is that correct?

A Yes, sir.



1 Q Now, this has one end that is bent outwards and well  
2 and away from the center of the section, I assume  
3 that this is the handle, is it not, it is a long  
4 object about ten inches long, is that correct?

5 A Yes, sir.

6 Q Now, the end of it that is bent outwards and away  
7 from the center, is that the upper or lower end of  
8 the door handle?

9 A If you could bring it over here, I will show you.  
10 The door handle, this would be the bottom of the  
11 handle. This would be mounted on the bulkhead like  
12 that. This would be the upper portion, this would  
13 be the lower portion. The snubber would attach to  
14 this portion.

15 Q Now, is the upper end of the handle attached anyplace?

16 A It is attached here and here to the bulkhead in the  
17 aircraft by these. These are the rest of it. This  
18 would be part of the handle.

19 Q Now, Mr. O'Neil, there appears to be some wood or  
20 some filler inside the handle in the upper end.

21 A Yes.

22 Q Would you describe what that is?

23 A It is a wood filler just primarily as shown. There  
24 is other material also in here.

25 Q What is the string that is inside, or what is inside



1 the package?

2 A I don't know.

3 Q Does that have anything to do with the door handle,  
4 the snubber mechanism?

5 A Not with the snubber, no. The snubber attaches in-  
6 dependently on the bottom.

7 Q Does that piece of string have anything to do with  
8 the Metro plane?

9 A A piece of string, I don't know.

10 Q Mr. O'Neil, the snubber attaches then to this pivot  
11 at the lower end of the handle? There's a lift there  
12 with a hole in it?

13 A That's correct.

14 Q And what does the snubber do?

15 A The snubber allows the door to open similar to a  
16 screen door type thing if you want to use that  
17 analogy. It decelerates the opening of the door.

18 Q And the snubber is attached with a pin of some sort  
19 to this?

20 A Yes, there is a fitting and -- right. The other end  
21 of the snubber is attached to the door.

22 Q Now, there is a chain also on the same side to which  
23 the snubber attached, is that correct?

24 A A safety chain, yes.

25 Q And how does the chain route when the door is up and

1 closed? Is the chain attached to this handle at  
2 any place?

3 A No, the snubber attaches to the handle. The chain  
4 is independent.

5 Q Okay. Where does the chain attach to?

6 A Well, I would have to have an airplane to really give  
7 you an accurate answer.

8 Q Well, please describe it as best you can. I'm sorry,  
9 we can't fit an airplane in here.

10 A Okay. To the bulkhead and the door.

11 Q Now, at about arm level or higher?

12 A Well, it depends on where you are standing. This  
13 door is actually steps also.

14 Q Yes. Where does the chain attach to the bulkhead,  
15 what height?

16 A I would be guessing. I couldn't answer accurately  
17 without --

18 Q You testified that you are familiar with the Metro  
19 aircraft.

20 A Yes, but not inches, dimensions, let's put it that  
21 way.

22 Q Can you testify whether it is at elbow height as you  
23 walk out?

24 A Yes, it would be.

25 Q Where is the handle?



1 A If you are going out, the door handle is on this  
2 side.

3 Q Okay. Now, where is the chain attached to the bulk-  
4 head in relation to the handle?

5 A I couldn't honestly give you an accurate answer without  
6 seeing the aircraft.

7 Q You don't know whether it is above or below the handle?

8 A You don't want me to guess so I'm not going to state  
9 it, no.

10 Q What is your best answer at this time?

11 A I am not going to guess. The judge doesn't want me  
12 to make an assumption.

13 Q You have no answer as to where that chain attaches  
14 relative to the handle?

15 A I have an opinion.

16 THE COURT: You can give your  
17 opinion. That is not a guess.

18 A As to where the chain attaches?

19 Q Yes.

20 A Okay. It is in the area of the handle.

21 Q Okay. And where does the chain attach to the door?

22 A Well, again, it is very difficult without having a  
23 door.

24 Q Mr. O'Neil, what is your best answer?

25 A It attaches in the area of the steps of the door.

1 Q As the door is lowered down from the plane, it would  
2 be near the very end of the door?

3 A In that area.

4 Q Near the ground?

5 A Right.

6 Q So that means when the door is up the chain is near  
7 the top of the door high?

8 A It comes up, yes, more or less.

9 Q Okay. Now, does anything secure that chain when the  
10 door is in its raised position?

11 A Anything secure the chain?

12 Q Is there a tension spring on the chain?

13 A No. If there was any tension the snubber would give  
14 you the tension.

15 Q Well, does the snubber tension the chain when the  
16 door is up?

17 A No.

18 Q Okay. The chain hangs?

19 A More or less.

20 Q By the way, with the snubber, are there any springs  
21 inside the snubber?

22 A The snubber is a -- I am not ultimately familiar with  
23 the workings of the snubber. Let me put it this way:  
24 It is a similar type of arrangement. I wouldn't want  
25 to be an expert and tell you the exact mechanical



1 workings of the inside of that snubber.

2 Q Is there a spring inside the snubber?

3 A I'm not familiar with it, I couldn't say. I have  
4 never taken a snubber apart.

5 Q Have you ever pulled on a snubber, one end against  
6 the other?

7 A Only in opening the door. I have never taken a  
8 snubber out and disassembled it.

9 Q I am not asking you whether you have disassembled  
10 it. Have you ever pulled one end of the snubber  
11 against the other? Have you pulled a shock absorber  
12 in a car?

13 A Oh, yes, I have done that on an airplane also on  
14 other snubbers, but I am not -- I never worked on  
15 that particular snubber.

16 Q Well, snubbers in general, do you know whether they  
17 have a spring inside them or not?

18 A Generally they do.

19 Q They do. And would that spring serve to counterbalance  
20 the weight of the door?

21 A That along with the other items. It could be an  
22 air spring cylinder, it could be an oil spring  
23 cylinder and so forth. It is usually not just a  
24 spring.

25 Q Now, do you know what actually was described by the

- 1 copilot as to how this handle was broken?
- 2 A Yes, sir.
- 3 Q What was described by him?
- 4 A He opened the door and the door fell free and that
- 5 is what caused the damage.
- 6 Q Okay. And that is all you know about what the copilot
- 7 described, nothing else?
- 8 A That the door actually, in essence, got away from
- 9 him.
- 10 Q Based upon that, you testified that this upper bend
- 11 could not have been caused by that action?
- 12 A Let me add one other thing. It was not my sole
- 13 opinion. The maintenance people who are really
- 14 charged in our district office for investigating
- 15 these were the people that actually came up with
- 16 this finding. They agreed with it and we all agreed,
- 17 in essence.
- 18 Q You agreed?
- 19 A Yes.
- 20 Q So that now becomes your opinion?
- 21 A Correct.
- 22 Q Are you as qualified as they are to render that
- 23 opinion?
- 24 A I would not say so. They are primarily the people
- 25 that -- they are specialists. We are two units,



1 the operation and maintenance unit. In essence, I  
2 was in charge of the whole team which was composed  
3 of these different special sts.

4 Q Now, Mr. O'Neil, I am holding the handle with the  
5 bent portion above.

6 A Yes.

7 Q Okay. Is there any way that the -- well, excuse me.  
8 Is it possible for the chain dangling from this door  
9 which is now above the snubber, is that correct?

10 A I didn't say that.

11 Q Well, excuse me. This handle, is it about at maybe  
12 shoulder or arm height, is that correct?

13 A Approximately.

14 Q The chain attaches to the door and its very bottom  
15 which would put it up above your head, is that correct?

16 A Right.

17 Q So now the chain would be dangling down past this  
18 handle, is that correct?

19 A It could be, yes.

20 Q Is it conceivable that the chain could catch some  
21 portion of the snubber or catch on some crevice or  
22 hook or pin down here where the snubber engages this  
23 handle?

24 A Not likely, possibly. Without seeing it, running a  
25 test on it, I can't say.

1 Q Now, if that chain did catch in the snubber and the  
2 snubber failed, would the force exerted by that  
3 door, could it pull the handle from its bottom mount-  
4 ing point?

5 A This would require a test.

6 Q This is rather thin gauge metal, is it not?

7 A Right.

8 Q What gauge is it, do you have any knowledge?

9 A Oh, I would say that is about 32 material, 30 thousandths.

10 Q Would it take very much to shear that material?

11 A No.

12 Q Not very much, okay. Now, let's assume that the  
13 chain catches the snubber, okay, and pulls on it.  
14 The door, by this time, is free falling. The snubber  
15 has failed. Is it conceivable then that the chain,  
16 if it engaged the snubber, would first break away  
17 the bottom mounting because it is shearing it in  
18 an outward direction from the door?

19 A In other words, it would pull it out this way.

20 Q If the chain caught on the snubber near the door  
21 portion as the door is falling, is coming out, would  
22 it not pull the lower end of that handle towards the  
23 exterior of the plane?

24 A Toward the exterior?

25 Q Yes.



- 1 A No, no, I wouldn't say so.
- 2 Q Where would it pull it?
- 3 A It would pull it outward.
- 4 Q Well, did I say something different?
- 5 A Exterior is the --
- 6 Q Exterior, outside the plane.
- 7 A Oh, okay, yes, it would, it would pull it outwards.
- 8 Q Okay. I notice in looking at this handle -- which
- 9 side of the plane, by the way, is the handle on,
- 10 the right or the left?
- 11 A It is on the left-hand side, same side as the door,
- 12 left hand.
- 13 Q It would be on this side, then, is that correct?
- 14 A Yes.
- 15 Q I notice that the leading edge of that handle is
- 16 bent inward.
- 17 A Yes.
- 18 Q The leading edge of the lower side, is that correct?
- 19 A That's right.
- 20 Q Is that consistent with the handle being pulled out-
- 21 wards at the bottom by the snubber as it is opening?
- 22 A If this were to be pulled outward it would pivot
- 23 this way.
- 24 Q Yes. And I notice that there is a projection or that
- 25 there is an indentation in the leading edge of the

1 lower portion of this handle. Is that consistent  
2 with it being pulled outwards?

3 A No, not by the marks on this side. It would look  
4 like it would be twisted this way by these marks.

5 Q Well, isn't that also consistent with being pulled  
6 on the bottom by the snubber, the snubber pulling  
7 the lower attachment here so any pull would rotate  
8 it in the direction you have just indicated?

9 A No.

10 Q Did you indicate a different direction?

11 A If it were pulling outwards it would rotate this  
12 way.

13 Q Wait. You have said this is on the left side, the  
14 left side anchored in this direction and the pull  
15 would be --

16 A No, sir.

17 Q Let me --

18 A Let me show you. The airplane is this way and the  
19 door is mounted on the bulkhead this way. The  
20 door is opening this way and this would be pulling  
21 this way, okay. It would not rotate this way. If  
22 it rotates any way, it would rotate that way.

23 Q Wait. Can you --

24 A All we need is an airplane. It is very difficult.

25 Q Could you please stand up and show us where that



1 handle would be and in what position it would be as you  
2 were a copilot standing to open that door?

3 A Okay. Again, the fuselage is this way, okay, fore and  
4 aft, right. Now, this is the door going towards you,  
5 right, the door drops out towards you. That is mounted  
6 on this side so that when people get down these steps,  
7 they use this --

8 Q Is that the right or left side?

9 THE COURT: Mr. Chalenski, are we  
10 concerned about a damaged door or a violation of  
11 the Railway Labor Act in this case? Could you tell  
12 me, because I have kind of lost track of what the  
13 issue is.

14 MR. CHALENSKI: Your Honor, the  
15 defendants have contended that this door was damaged,  
16 purposely damaged.

17 BY MR. CHALENSKI:

18 Q Now, Mr. O'Neil, you have just held this handle in  
19 your right hand.

20 A If you are going out of the door, it would be in your  
21 right hand.

22 Q Okay. That is on your right side?

23 A Let's not confuse my right side with the airplane's  
24 right side.

25 Q Okay. Now, let's see. There is a projection at the

1 bottom here. You are saying that this thing could not  
2 be caused with a twist in that direction, that the  
3 damage could only be caused with a twist in that  
4 direction.

5 A My estimation, that would indicate that it wouldn't have  
6 been twisted outwards. It would appear if this were  
7 raised this way rather than -- if it did go any way,  
8 it would have to twist outwards, you know, not up this  
9 way or not as this indicates it was twisted backwards.

10 Q Okay. Now, if the lower handle were sheared first  
11 somehow, if this were sheared first, coming down, would  
12 that not be the same, have the same effect on the top  
13 of raising it in the direction that it is broken?

14 In other words, would that top be  
15 bent that way, either with the bottom being pulled  
16 down and out as with the top being pulled up and in?

17 A Well, in my estimation, this thing was failed by this  
18 coming in this direction which would be out and up,  
19 okay, that is my estimation, for what it is worth.

20 Q On what do you base that?

21 A Just by the shape of the part and the stress marks and  
22 the --

23 Q And the what?

24 A And the evidence of the handle.

25 Q Is not the bending of this top consistent with the



1 bottom being pushed down and out?

2 A Not normally, really.

3 Q Normally, is it inconsistent with the bottom being  
4 pulled down and out?

5 A Yes, it is, I would have to say it was, in all honesty.  
6 Undoubtedly, you could get a stress engineer to give  
7 you a much better opinion than I have, you know. This  
8 would be my assumption based on my background.

9 Q Not your assumption, your --

10 A If somebody asked me how it failed, I would give you  
11 that opinion.

12 Q Is this what you have in front of you, the appearance  
13 of this, inconsistent with the bottom being pulled down  
14 and out so that by the time this was being released,  
15 the attaching mechanism, it had just started to -- it  
16 had been pulled down and out and twisted down?

17 A Yes, but what you are saying --

18 Q Mr. O'Neil, I am asking you if what you see there is  
19 inconsistent with that.

20 A It is conceivable that it would have been done that way.

21 Q Okay, Mr. O'Neil, thank you.

22 A But the chain would never pull in that way, the way  
23 that thing is mounted.

24 Q Well, the chain what?

25 A The snubber would never pull it in that direction.

1 Q What direction would the snubber pull it in?

2 A The snubber would pull it the opposite direction. The  
3 way you are saying, would not pull it out this way,  
4 it would pull it this way.

5 Q It would pull it down and out, correct?

6 A But not -- what you call out is not really out.

7 Q It would pull it: --

8 A Out away from the bulkhead where it would pull it out  
9 towards the outside of the airplane.

10 Q When I say out, I mean outside of the airplane.

11 A Okay. No, it wouldn't. That would not fail that way  
12 if it was pulled outside of the airplane.

13 Q If it were pulled down and outside the airplane, it  
14 would not fail this way?

15 A No, sir.

16 Q The chain that attaches the door, is this also used as  
17 a handle of some sort, does it have an additional  
18 attaching point?

19 A I wouldn't say it would be used as a handle, no.

20 Q Now, this letter of April 30th, 1975, describes a  
21 rubber door seal in the rear cargo door. When was that  
22 seal inspected?

23 A Both were inspected on that day, same occasion that  
24 inspection is made.

25 Q Would that be on April 17th, 1975?



1 A I don't have the record to tell you the exact date.  
2 Whenever they made that inspection, they were both  
3 looked at at that time.

4 Q Did you look at the door seal at that time?

5 A Yes, both seals.

6 Q Does that letter refresh your recollection?

7 A Yes, April 17th, right.

8 Q And you said the rubber door seal at the rear cargo door  
9 was a fairly new seal. Is that your opinion?

10 A Yes, sir.

11 Q And how new was it?

12 A When you say new, the airplane was new, okay. It was  
13 not an airplane that has been around for ten years,  
14 this type of thing. It is a relative term. It looked  
15 in good condition.

16 Q What did you mean, four months old, a year old?

17 A No. What I could determine, the exact age of the seal --

18 Q What do you mean by fairly new?

19 A It did not look old, weather checked, worn, whatever  
20 you like to call it, new tire, old tire, that type thing.

21 Q So you have no idea of the age of that seal?

22 A No, sir.

23 Q Whether that was on the airplane in December of 1974  
24 or whether it was a seal that had only been put into  
25 service in March of 1974?

1 A All I can tell you, it was the seal that they said came  
2 off the particular airplane.

3 Q Now, you described holes in the seal caused by a small  
4 sharp object. Now, these are holes that go through,  
5 it is not cut marks, is that correct?

6 A Puncture marks. What do you mean by cut marks?

7 Q Well, it is not like a knife blade or something like  
8 that touching the seal or a sharp cutting edge from a  
9 piece of luggage?

10 A I don't know what made it. I can't determine that, but  
11 it wasn't a hole. It could have been a knife blade.  
12 It is conceivable it could have been any sharp object.

13 Q Could it have been a latch from some luggage?

14 A If you want my opinion, no.

15 Q That is not sharp enough?

16 A No.

17 Q If it were that sharp, you would have a problem handling  
18 the luggage, I would assume. If the snap on a piece  
19 of luggage had just recently become sharp and bent  
20 outwards, it could have a sharp edge?

21 A Conceivably.

22 Q Now, you render no opinion as to who caused any of this  
23 damage, is that correct?

24 A No.

25 Q Could have been anybody?



1 A Yes, sir.

2 MR. CHALENSKI: Thank you, Mr. O'Neil.

3 MR. RICHARDS: No questions.

4 THE COURT: You are excused.

5 (Witness excused.)

6 MR. RICHARDS: Your Honor, may we  
7 resume with Mr. Bell?

8 THE COURT: Yes.

9 THEODORE (TED) BELL,  
10 having previously been duly sworn according to law, testified  
11 further as follows:

12 CROSS-EXAMINATION (Continuing)

13 BY MR. RICHARDS:

14 Q Mr. Bell, before you stopped testifying this morning,  
15 I believe we were discussing the matter of the  
16 proposed transfer of Josephson to Elmira and you had  
17 indicated that Solberg, one of the captains assigned  
18 to Elmira, had recommended that Josephson not be  
19 transferred.

20 Did you receive recommendations from  
21 any other captains in that Elmira branch regarding the  
22 transfer of Josephson?

23 A Yes, I did.

24 Q And did you receive a recommendation from William Lamos?

25 A Yes, I did.

1 Q And what was his recommendation?

2 A He recommended against it.

3 Q Did he give any reasons?

4 A He felt that he wouldn't contribute to a smooth  
5 operation within their domicile and their proposed  
6 operation.

7 Q And finally, did you receive a recommendation from  
8 any other captain?

9 A Captain Don Reeve, also.

10 Q What recommendation did he give?

11 A He said that he did not want him in the domicile. He  
12 felt he had been very difficult to work with.

13 Q Okay, thank you. Now, with regard to the pilot, Ronald  
14 Williams, was there an occasion when you received  
15 complaints regarding his work habits at the company?

16 A I had some complaints on that, yes, sir.

17 Q And what were the nature of these complaints?

18 A Generally, his lateness in arriving for flights.

19 Q And would this lateness be in the morning or afternoon?

20 A Generally in the morning.

21 Q Oh, incidentally, at the time you hired Hummel, was  
22 he told about the company's one-year probationary  
23 period?

24 A Yes, he was.

25 Q And, incidentally, at the time Hummel was hired, did



1 he meet the minimum requirements for a copilot used by  
2 Commuter?

3 A Not at that time, no.

4 Q And do you have any recollection as to the number of  
5 hours he had on multi-engine aircraft?

6 A Perhaps 30 to 40.

7 Q What were the minimum requirements for the company at  
8 that time?

9 A 100 hours.

10 Q And as a consequence, did the company undertake a  
11 program whereby they would improve the qualifications  
12 of Hummel?

13 A Yes, we did.

14 Q And what was that program?

15 A Well, within the confines of our operations, there are  
16 certain flights and operations which are authorized  
17 single-pilot operation, and Mr. Hummel had to see me  
18 a number of times and convinced me of his sincerity  
19 in wanting to work with us and that he could do a good  
20 job for me, and so I made an exception. I bent the  
21 rule a little bit for him and I offered him the  
22 opportunity to fly on a mail route which we had and  
23 whatever single-pilot flights that I could fit him in  
24 on in order to build his time up so that he would then  
25 be qualified for the two-pilot operation.

1 Q Okay. Now, what was, at this time, the company policy  
2 regarding uniforms to be obtained by a new employee?

3 A Normally they were expected to order their uniforms  
4 after 30 days with the company. We expected them to  
5 be in uniform at the time they went on the Metro  
6 aircraft operation.

7 Q Did you have occasion to speak with Hummel regarding the  
8 uniform?

9 A The time I gave him his initial Metro check, I inquired  
10 about it and he indicated to me it was on order.

11 Q It was what?

12 A He indicated to me that it was on order.

13 Q I see. Do you know when this was?

14 A December '74, I believe.

15 Q All right. Did he ever get his uniform before he was  
16 discharged?

17 A No, he did not.

18 MR. RICHARDS: No further questions.

19 THE COURT: Mr. Bell, before  
20 October 3rd, how many maintenance employees,  
21 clerical help, did this company have?

22 THE WITNESS: I can't tell you, sir.

23 THE COURT: You have no idea?

24 THE WITNESS: I can estimate.

25 THE COURT: What would you estimate?



1 THE WITNESS: Probably five clerical  
2 people.

3 THE COURT: Were any of them fired  
4 after October 3rd?

5 THE WITNESS: Not to my knowledge.  
6 That was clerical.

7 THE COURT: What about maintenance  
8 people? Any of them fired?

9 THE WITNESS: Yes, there was termination  
10 of maintenance.

11 THE COURT: How many and when?

12 THE WITNESS: One, at the same time  
13 Mr. Hummel and Mr. Larimore were fired.

14 THE COURT: One out of how many?

15 THE WITNESS: Out of approximately 16,  
16 I would estimate.

17 THE COURT: Any other employees fired?

18 THE WITNESS: There were two out of  
19 maintenance, one off the line out of approximately 16  
20 people.

21 CROSS-EXAMINATION

22 BY MR. CHALENSKI:

23 Q Mr. Bell, that last answer, one out of 16 maintenance  
24 were fired, when was he fired?

25 A At the same time Mr. Hummel and Mr. Larimore were.

1 Q At the same time as Mr. Hummel?

2 A I mean Mr. Larimore, because he was a couple days ahead  
3 of Mr. Hummel.

4 Q Okay. And around October 3rd, from October 3rd until  
5 that time, how many maintenance persons were fired?

6 A I don't know.

7 Q Any?

8 A None that I know of.

9 Q No clerical help was fired. Line people, what are line  
10 people?

11 A Line people perform line services on aircraft such as  
12 fueling, towing, starting, hangering and unhangering.

13 THE COURT: Did you dispose of any  
14 aircraft at or about October 3rd?

15 THE WITNESS: No, we didn't.

16 THE COURT: Did you cancel any flights,  
17 any scheduled flights or attempt to do so?

18 THE WITNESS: We hadn't cancelled  
19 any scheduled flights, no, sir.

20 THE COURT: Did you refuse any charters?

21 THE WITNESS: No, we didn't.

22 THE COURT: Did you curtail your  
23 operations in any way?

24 THE WITNESS: We did a great deal of  
25 combining flights.



1 BY MR. CHALENSKI:

2 Q Line persons, you testified two of those were fired.

3 When were they fired?

4 A At the same time as Mr. Larimore.

5 Q So that brought you down to four line personnel?

6 A I think I corrected that to two mechanics and one line  
7 person.

8 Q Two mechanics out of 16 and one line personnel out of  
9 six?

10 A Out of six to seven.

11 Q What is your present roster of those personnel?

12 A Line personnel are you referring to now?

13 Q Yes.

14 A They have, I believe, seven people at this time.

15 Q Now you have seven, so you went down to five and now  
16 you are up to seven?

17 A I believe so, yes.

18 Q When did you hire the sixth?

19 A I can't tell you, it is not my department. I have  
20 no handle on when they were hired, but the summer of  
21 1975, I would think.

22 Q What is your reason given for terminating that person?

23 A Which person?

24 Q The line person.

25 A A reduction in force.

- 1 Q And the two mechanics that were terminated at that time,  
2 you went from 16 down to 14 mechanics?
- 3 A Approximately.
- 4 Q What is your present mechanics staff?
- 5 A I can't say, I don't know the exact count at this time.
- 6 Q Is it more than 14?
- 7 A It probably is, but I can't say.
- 8 Q Now, from about September of 1974, did your company  
9 lose charter business?
- 10 A Yes, we did.
- 11 Q And what charter business?
- 12 A We lost --
- 13 Q There was some IBM charter business that you lost,  
14 correct?
- 15 A Yes.
- 16 Q And about the beginning of September 1974, how many  
17 flights a week were you flying charter for IBM?
- 18 A I don't have a handle on the exact number of flights  
19 per week.
- 20 Q What is your best recollection?
- 21 A Without consulting my records, it would be purely a  
22 recollection.
- 23 Q Do you have those records here?
- 24 A I don't have them here today, but I can produce them.
- 25 Q Was it more than 10 a week?



1 A In some weeks I would think it would be.

2 Q Was it also less than five a week in some weeks?

3 A I would think it would be.

4 Q Would eight a week be a fairly good figure?

5 A I think at that time it would be a good figure.

6 Q This would be the beginning of about September 1974.

7 Now, where were those charter flights for IBM to, what  
8 were the destinations?

9 A Many destinations. I mean, Washington, New York air-  
10 ports, New England area, throughout the region.

11 Q Was it primarily Washington? Was that the bulk of it?

12 A I'm sorry?

13 Q Was Washington the bulk of the destinations?

14 A There were a number of them to Washington.

15 Q Is it fair to say you flew most of these charter  
16 flights to Washington?

17 A I think that could vary in any given week. I don't  
18 think it would be fair to say that, no, in one week.  
19 It might be for one month. It might be, but then it  
20 wouldn't be a continuous thing.

21 Q Did there come a time when you did not have as many  
22 charter flights for IBM? Let me backtrack slightly.  
23 You were contracting a plane with IBM at that time also,  
24 is that right?

25 A At Binghamton you are talking about?

- 1 Q No, this was out of Dulles Airport, I believe.
- 2 A Yes, we were.
- 3 Q Okay. And you lost that contract at about this time,  
4 is that correct?
- 5 A Yes, we did.
- 6 Q And as a corollary to that, you also lost pilots  
7 McKinly and Ferber, is that correct?
- 8 A Yes.
- 9 Q So that loss did not necessitate any reduction in your  
10 staff, is that correct?
- 11 A That's right.
- 12 Q Are you including any of those flights out of the  
13 Dulles Airport in your estimates?
- 14 A No, I wasn't estimating those flights. We are talking  
15 about Binghamton operations.
- 16 Q Now, how many flights are you now flying charter for  
17 IBM in a given week?
- 18 A Every week it is so different I would have to look at  
19 the figure to tell you. I can't tell you.
- 20 Q Would it be fair to say that now you are flying around  
21 four charters a week?
- 22 A Four would be a fair number, I suppose.
- 23 Q And sometime between the beginning of September 1974  
24 and the present, your charters from IBM went from  
25 about eight down to about four per week, rough figures?



1 A Rough figures.

2 Q And when did that decrease take place, over what period  
3 of time?

4 A The decrease was going on through the winter. I haven't  
5 studied the statistics on it, but it was an ongoing  
6 thing. It was going on.

7 MR. SHANAHAN: Keep your voice up.

8 THE WITNESS: I'm sorry.

9 BY MR. CHALENSKI:

10 Q The flights for this loan company -- I'm sorry, I have  
11 forgotten the name.

12 MR. SHANAHAN: Public Loan.

13 BY MR. CHALENSKI:

14 Q You had some charter flights for Public Loan and were  
15 performing charter service for them at about the  
16 beginning of September of 1974?

17 A Yes, we were.

18 Q Would it be fair to say that you were flying three or  
19 four flights for them a month?

20 A I think it was more than that, in the summer of '74.

21 Q Excuse me, I didn't hear you.

22 A I think it was more.

23 Q Well, what would you say?

24 A How many did you say?

25 Q About four a month.

- 1 A No, I think it was a higher figure than that on the  
2 average. I think it was more like ten a month,  
3 probably, but I can't say without my records. I would  
4 have to check that.
- 5 Q Okay. And how many flights are you flying for them  
6 at the present time a month?
- 7 A Probably one every two months.
- 8 Q And what was the destination of those flights?
- 9 A In the New York area, upstate, downstate, Philadelphia.
- 10 Q Now, shortly following the cutback in IBM business,  
11 did you establish any regularly scheduled runs to  
12 Washington?
- 13 A Did we establish any regular --
- 14 Q Well, how many regularly scheduled daily regular runs  
15 did you have to Washington at the beginning of  
16 September 1974?
- 17 A We had been running five right along.
- 18 Q You were not running three at the beginning of  
19 September 1974?
- 20 A No, sir.
- 21 Q Do you recall when you started running five?
- 22 A I can't recall the specific date, no, sir.
- 23 Q But it is your testimony that in the beginning of  
24 September you were running five?
- 25 A Yes, sir.



1 Q And you are presently running five?

2 A Yes, sir.

3 Q During the fall and winter of '74 up through about April  
4 or the spring of '75, did you add any regularly  
5 scheduled runs?

6 A I can't recall whether we did or not without checking  
7 the schedules; I can't tell you.

8 Q Those schedules are available?

9 A They are not available here in the courtroom, but they  
10 are available, yes, sir.

11 Q Will you be good enough to bring those with you tomorrow?

12 A I am sure I can.

13 Q Mr. Bell, when you receive complaints against any  
14 pilot from any source, what do you do? Say one pilot  
15 complains to you about Tom Smith, what is the first  
16 thing you do?

17 A What is the complaint about Tom Smith? What has he  
18 done? I mean is it a specific thing?

19 Q Tom Smith was late for a flight, ten minutes late.

20 A I would ordinarily speak with Tom Smith about it.

21 Q Are there occasions when you wouldn't speak to Tom  
22 Smith?

23 A Probably would be.

24 Q Now, is any notation made in the file?

25 A Frequently there is.

1 Q Well, when you say frequently, what percentage of the  
2 time?

3 A Probably about half the time.

4 Q And when is that notation made?

5 MR. SHANAHAN: Pardon me. Would you  
6 keep your voice up? We can't hear you.

7 A Probably about half the time.

8 BY MR. CHALENSKI:

9 Q And when is that notation put in the file relative to  
10 the complaint?

11 A You mean in regards to the complaint itself?

12 Q Yes.

13 A Usually when I get the complaint.

14 Q Okay. It would be then within a few days of the  
15 complaint?

16 A That's right.

17 Q And in what manner is that placed in the file?

18 A It is just dropped in on a note, frequently.

19 Q A little note on a slip of paper?

20 A Sometimes.

21 Q Your handwriting?

22 A Sometimes.

23 Q Who else's handwriting?

24 A Sometimes Mr. Winston gives me a note if he has a  
25 complaint and I drop it in.



1 Q Now, what prompts your decision whether or not to put  
2 a note in the file?

3 A It depends on the frequency of the infraction and the  
4 amount of time I have to devote to it at any given time,  
5 I suppose. Sometimes I keep a pretty busy schedule.

6 Q Is that all?

7 A And the nature of it. If it is very serious or I feel  
8 it is hazardous, I certainly might make more of an  
9 effort than if it was something that was not too  
10 drastic.

11 Q Something that was not too drastic, you might let it  
12 go and not put anything in the file?

13 A That is possible.

14 Q Now, what do you say is drastic, just safety or  
15 anything else? .

16 A It depends if it is chronic. If it is chronic lateness  
17 or chronic unavailability, that begins to get drastic  
18 as it gets chronic.

19 Q Do you have pilots that are chronically late that you  
20 start putting notes in their files?

21 A Do I?

22 Q And pilots that are chronically antagonistic to  
23 customers that you put notes in their files?

24 A I have done that.

25 Q Pilots that are chronically not available for flights?

1 A I have done that.

2 Q You put notes in their files?

3 A I have done that.

4 Q Let's go over your duties for the corporation. You are  
5 chief pilot?

6 A That's correct.

7 Q You are responsible for the operational parts of the  
8 flights, general supervisory responsibilities, I assume?

9 A Yes.

10 Q Now, what are Mr. Winston's responsibilities?

11 A He has the overall administration of the company.

12 Q Well, could you just describe in a little more detail  
13 what his day-to-day activities are.

14 A Day to day he is on the premises in his office  
15 attending to matters of the company, planning and  
16 sales and supervision of accounting and other functions.

17 Q Is he responsible for scheduling pilots?

18 A Well, he is in overall charge of the entire operation,  
19 generally, he isn't directly responsible for scheduling.

20 Q Who is responsible for scheduling.

21 A The pilots?

22 Q Yes.

23 A I am.

24 Q How about pilots' complaints? Do they go directly to  
25 the Defendant Winston?



1 A It depends on the subject. Frequently they come to me.  
2 Sometimes they go directly to him. It depends if I am  
3 available. If I am not available, they speak with him.  
4 If I can't solve their problem, they certainly should.  
5 speak to him.

6 Q Okay. If a pilot speaks to him, does Mr. Winston in  
7 turn get back to you and ask you to look into it?

8 A Sometimes.

9 Q And other times not?

10 A Other times he feels the matter has been handled and  
11 there is nothing more said about it.

12 Q Now, when a complaint is made to you by a pilot  
13 concerning the performance of another pilot or by a  
14 customer, a complaint of any nature against a pilot,  
15 do you take that up regularly with the Defendant  
16 Winston?

17 A Which one are you talking about, the customer or by  
18 another pilot now?

19 Q If there is a difference, please explain the difference.

20 A Well, a customer complaint will frequently come in by  
21 mail, and Mr. Winston, if I am not there, will get that  
22 letter and he may, he will normally advise me of it,  
23 but if he sees the man before I do, he may well address  
24 it with him.

25 Q Now, a complaint from a pilot by a copilot, for example.

1 A Ordinarily, I would be the first to hear that.

2 Q And then what do you do?

3 A Well, then, I explained to you, it depends on the  
4 circumstances. I generally take it up with the copilot  
5 at that time.

6 Q Do you take it up with the Defendant Winston?

7 A And I advise Mr. Winston if I feel it is a chronic  
8 problem area.

9 Q And if it is not chronic, you don't advise him?

10 A It is not a hundred percent one way or the other.  
11 Sometimes I do, sometimes I don't.

12 Q Now, is it a fair statement then that more serious  
13 infractions get recorded in the file and get taken up  
14 with the Defendant Winston?

15 A It tends to be that way.

16 Q Less serious ones don't get in the file and don't get  
17 taken up with the Defendant Winston?

18 A That is basically it.

19 Q Now, let's go to some of the infractions that we have  
20 got here. Now, you spoke personally to Robert Slough,  
21 is that correct, on his termination?

22 A Yes, I did.

23 Q And you mentioned poor performance, radio procedures,  
24 I guess, as reported by Captains Reeve and Kleitz,  
25 bad attitude and schedule failure, that he had been



1           unavailable for flights.

2       A     Poor performance in what regard, sir?

3       Q     Poor radio procedures, I believe, is what you testified  
4           to.

5       A     That is what I testified to this morning, yes.

6       Q     Is his performance deficient in any other respect?

7       A     It was average and acceptable.

8       Q     Average and acceptable?

9       A     That is what I said this morning, I believe.

10      Q     Who did Copilot Slough fly with?

11      A     He flew with -- when he was in Binghamton he flew with  
12           all the Binghamton base captains. When he got to  
13           Elmira he flew with captains that were there.

14                   THE COURT: Is there any note about  
15           poor performance?

16                   THE WITNESS: There are no notes.

17                   THE COURT: No note involved?

18                   THE WITNESS: In my hand.

19                   THE COURT: Anybody's hand?

20                   THE WITNESS: I think in summarizing  
21           those files, it was included in a summary.

22                   THE COURT: Was there a note in the  
23           file at the time about these poor radio procedures?

24                   THE WITNESS: I don't believe  
25           there was.

1 THE COURT: Is there a note in the  
2 file about any other poor performance at any other  
3 time?

4 THE WITNESS: I can't recall without  
5 checking the files.

6 THE COURT: You can't recall. Did you  
7 look? Before you fired the man, did you look?

8 THE WITNESS: I was aware of his  
9 problem at the time, yes, sir.

10 THE COURT: Did you see whether there  
11 was a note in the file?

12 THE WITNESS: I don't recall whether  
13 I had a note in the file.

14 BY MR. CHALENSKI:

15 Q The file is here, is it not?

16 A I believe it is, yes, sir, I brought it here.

17 MR. CHALENSKI: If your Honor will  
18 permit it, we will get the file right now and look.

19 THE COURT: Yes, get it.

20 (Mr. Chalenski gets file.)

21 BY MR. CHALENSKI:

22 Q Mr. Bell, I didn't check each file here, but these are  
23 the ones I believe your company produced pursuant to  
24 subpoena. Is Mr. Slough's file among those?

25 A Yes.



1 Q You have his file in your hand?

2 A Yes.

3 Q Now, there is a note in that file, isn't there?

4 A Yes, sir.

5 Q Is there only one note in that file?

6 A There is one note in that file.

7 MR. CHALENSKI: I would like to have  
8 that marked.

9 THE CLERK: Government's Exhibit 41  
10 marked for identification.

11 (Government's Exhibit 41 marked  
12 for identification.)

13 BY MR. CHALENSKI:

14 Q Now, Government's Exhibit 41 for identification is the  
15 only note contained in that file, is that correct,  
16 Mr. Bell?

17 A Let me check. (Witness looks.) That is the only note  
18 I see.

19 Q Whose handwriting is that note in, Mr. Bell?

20 A It is in my handwriting.

21 Q When did you make that note?

22 A In September of '74.

23 Q In September of '74. There is a date in pencil,  
24 9/30/74. Would that be the date that you made that  
25 note then?

1 A It could be.

2 Q Was that note then made at about the time that you had  
3 this alleged conversation with the Defendant Winston  
4 concerning the firing of Mr. Slough?

5 A It would have been in that approximate time period.

6 Q This note contains a date, June '74, on a Friday  
7 Mr. Slough was not scheduled. That note was made at  
8 about that time?

9 A I'm sorry?

10 Q Excuse me. This note contains areference to an incident  
11 in June of '74. Was that record made in June of '74?

12 A No, it wasn't.

13 Q I am not sure if you answered my last question. Was  
14 this note made at about the time of the alleged  
15 conversation which you had with the Defendant Winston  
16 concerning Robert Slough being fired?

17 A I said it was approximately that time, yes.

18 Q Do you recall -- well, what is your best recollection  
19 in relationship to that conversation?

20 A You mean before or after?

21 Q Well, how close, which way?

22 A Perhaps it could be made at the time we had the  
23 conversation.

24 Q So this note may have been made at the time you were  
25 talking about firing Robert Slough?

1 A It could have been.

2 THE COURT: Well, was it? Don't  
3 you know?

4 THE WITNESS: I don't recall, sir.

5 THE COURT: How long ago was this?

6 THE WITNESS: A year and a half ago.

7 BY MR. CHALENSKI:

8 Q Is there any reference on that note to poor radio  
9 procedures?

10 A No, there isn't.

11 Q Is there any reference on that note to bad attitude?

12 A I would say there is, yes.

13 Q And where is that?

14 A I would say by virtue of the man's nonavailability  
15 it was a reflection of his attitude.

16 Q Okay. There are two references here to not being  
17 available, is that correct, one in June of '74 and  
18 one in September of '74?

19 A Yes.

20 Q And these are the ones that you heard Mr. Slough  
21 testify to? He testified he went to an ophthalmologist,  
22 I believe, in Rochester?

23 A I heard his testimony.

24 Q Yes. Were you aware that as a condition of his  
25 continuing to fly, Mr. Slough needs to be checked by



1 an ophthalmologist regularly?

2 A I wasn't aware of that, no, at the time.

3 Q When did you first become aware of that?

4 A In the exit interview he told me this was the reason he  
5 had gone. He didn't explain why he hadn't gotten  
6 permission to go or permission to get off work, but he  
7 did explain that was the reason he had to go.

8 Q His exit interview; that was on October 3rd, 1974?

9 A That's right.

10 THE COURT: When you check out pilots,  
11 aren't you concerned with their eyesight at all?

12 THE WITNESS: I note that they have  
13 a current medical on file, sir.

14 THE COURT: Didn't he advise you he  
15 had to go see an eye doctor?

16 THE WITNESS: No, he wouldn't  
17 normally advise me that he had to go see an eye doctor,  
18 sir.

19 MR. SHANAHAN: Would you keep your  
20 voice up.

21 THE WITNESS: I'm sorry. I say, his  
22 medical wouldn't normally tell me how often he  
23 would have to go see an eye doctor.

24 THE COURT: Did he wear glasses?

25 THE WITNESS: He wore contact lenses.

1 THE COURT: Were you aware of that  
2 when you hired him?

3 THE WITNESS: I believe I was, sir.

4 BY MR. CHALENSKI:

5 Q Now, what is your best recollection as to when this  
6 alleged conversation with the Defendant Winston took  
7 place concerning the firing of Mr. Slough, Josephson  
8 and Baan?

9 A My recollection is late in the preceding week.

10 Q October 2nd was a Wednesday, we have had testimony as  
11 to that, Mr. Bell.

12 A I believe it was.

13 Q So the 1st would be a Tuesday. The preceding week  
14 would be sometime in September 20th through 27th or so  
15 of September?

16 A Yes, sir.

17 Q Are these the reasons that you discussed with the  
18 Defendant Winston for firing Slough?

19 A Yes, those were among the reasons we discussed.

20 Q What date did the flight that Captain Reeve missed in  
21 Elmira and which involved an overloading of one  
22 passenger on an airplane, what date did that take place?

23 A That occurred, I believe, on the 30th.

24 Q 30th?

25 A Yes, sir.

- 1 Q That would have been a Sunday, is that correct?
- 2 A I could check my records before I tell you for sure.
- 3 Let me check my records. I have the material here.
- 4 Q I believe there are 30 days in September, aren't there?
- 5 A May I check my records on it?
- 6 Q So then this flight took place then on Monday, just
- 7 three days before Mr. Slough was fired?
- 8 A Let me check. I will check my records and the dates,
- 9 and I have that information with me.
- 10 Q Okay, please.
- 11 A It was on the 30th, according to my record there.
- 12 Q Had you discussed that flight with the Defendant Winston
- 13 in the course of discussing the firing of Robert Slough?
- 14 A Yes, I did.
- 15 Q There was also mention on cross-examination of Mr.
- 16 Slough, about complaining to a secretary in regards to
- 17 counter duties.
- 18 A That was a complaint of Mr. Winston's. I wasn't aware
- 19 of it, but he had mentioned it to me.
- 20 Q When did he mention that to you first?
- 21 A I have no knowledge at this time.
- 22 Q Was it before Mr. Slough was fired?
- 23 A About counter duties in what regard? Was it --
- 24 Q He was asked on cross-examination whether he complained
- 25 in regard to his counter duties, that copilots had to



1 perform them.

2 A Right.

3 Q When did you first hear about that?

4 A I don't know when I came into possession of that  
5 knowledge.

6 Q Was it before he was fired?

7 A Well, if he says I spoke to him about it, I suppose it  
8 was.

9 Q Do you recall that he said you spoke to him about it?

10 A Well, if he didn't say it, then I don't know that I  
11 spoke to him.

12 Q You don't recall anything about it?

13 A I recall talking to him about these items.

14 Q About complaining to secretaries in regards to counter  
15 duty?

16 A I said I don't recall discussing that with him. I  
17 recall discussing these items with him.

18 Q Wait, Mr. Slough. You have previously testified that  
19 you discussed with him his bad attitude, his poor  
20 radio procedures and his unavailability for flights.  
21 On cross-examination Mr. Richards asked him about some  
22 complaints he made to secretaries in regard to counter  
23 duties. Was that a basis for his being fired?

24 A Not as far as I was concerned. The incidents I had  
25 stood by themselves.

1 Q He was also asked about some cash in an envelope that  
2 may have been missing. Did that have anything to do  
3 with his being fired?

4 A No, that wasn't the reason he was fired.

5 THE COURT: Do I understand you to  
6 tell us that there is not a single note in the file  
7 contemporaneous with the alleged incident that was  
8 made at that time, the time the incident occurred?

9 THE WITNESS: The last item on the  
10 flight was made at the time.

11 THE COURT: September 30th?

12 THE WITNESS: Yes, sir.

13 THE COURT: And that is the only one?

14 THE WITNESS: That is the only one,  
15 yes, sir.

16 THE COURT: And that is after you  
17 talked to the other defendant?

18 THE WITNESS: Yes.

19 BY MR. CHALENSKI:

20 Q That note in regard to the 30th, Mr. Bell, was made  
21 following the notes of the 6th, '74 and the earlier  
22 one regarding his unavailability because he visited  
23 the opthalmologist, is that correct?

24 A Do you want to try that again?

25 Q The note regarding this schedule change, that is on

1 the same piece of paper and preceded by the two other  
2 instances?

3 A That's correct.

4 Q His not cleaning an airplane, that was also brought out  
5 in cross-examination, was that a basis for his being  
6 fired?

7 A I was certainly aware of it.

8 Q When did you become aware of it?

9 A It was part of his duties. Before he was transferred  
10 to Elmira.

11 Q That would be before September of '74?

12 A Yes.

13 Q Did you put any note in his file concerning that?

14 A I don't believe I did.

15 Q Does that mean that he did not chronically fail to  
16 clean his airplane?

17 A Evidently not.

18 Q The failure of a note in the file regarding complaining  
19 to secretaries, that means he was not a chronic  
20 complainer to the secretaries?

21 A Not necessarily.

22 Q The failure of a note that his regular performance was  
23 poor, does that mean that he was not chronically poor  
24 in his regular performance?

25 A That was an incident which I talked to him at the time



1 the captains had talked to me, and I talked to him and  
2 I carried that one. I didn't write it at all.

3 Q You didn't deem it sufficiently important to put in his  
4 file?

5 A Perhaps.

6 Q Did you ask Captain Solberg about Mr. Slough's radio  
7 communication procedures?

8 A No, I didn't.

9 Q Were you aware that Mr. Slough flew a considerable time  
10 with Captain Solberg?

11 A I was aware of that.

12 Q Do you have Mr. Josephson's file in front of you?

13 A I will check.

14 THE COURT: I think we are at about  
15 the end of a day. It would be a convenient place  
16 to adjourn.

17 We will talk about Mr. Josephson  
18 tomorrow.

19 MR. CHALENSKI: Yes, Your Honor.

20 THE COURT: We will recess now until  
21 tomorrow morning at 10 o'clock. Don't talk about  
22 the case; don't let anybody talk to you about it.

23 (Whereupon, the proceedings were  
24 adjourned to Thursday, June 10, 1976 at 10 a.m.)

2

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

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3 THE UNITED STATES OF AMERICA

4 vs.

75-CR-89

5 JERRY WINSTON, BROOME COUNTY  
6 AVIATION, INC., COMMUTER AIRLINES,  
INC., and THEODORE (TED) BELL,

7 Defendants.

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8  
9 CONTINUED TRIAL PROCEEDINGS in the  
10 above-entitled matter held on the 10th day of June 1976  
11 before Hon. Lloyd F. MacMahon, United States District  
12 Judge, at the Federal Building, Auburn, New York.

13  
14 APPEARANCES:

15 HON. JAMES M. SULLIVAN, JR.,  
16 United States Attorney for the  
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17 Syracuse, New York,  
By: ARTHUR CHALENSKI,  
18 Assistant United States Attorney.

19 RODNEY A. RICHARDS, ESQ.,  
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Attorney for defendants Winston,  
21 Broome County Aviation, Inc. and  
Commuter Airlines, Inc.

22 PAUL SHANAHAN, ESQ.,  
23 Syracuse, New York,  
Attorney for Defendant Bell.

24 VOLUME 8

1 THE COURT: Proceed, Mr. Chalenski.

2 (Continued cross-examination of  
3 Defendant Bell by Mr. Chalenski.)

4 BY MR. CHALENSKI:

5 Q Mr. Bell, yesterday you were going to review some of the  
6 records of the corporation to determine any changes in  
7 your scheduling during 1974-75.

8 Have you done that?

9 A Yes. Mr. Winston did some research last night and  
10 provided some information on that this morning.

11 Q Now, you said yesterday that about eight flights per  
12 week was a fair estimate of the number of charter  
13 flights that you had for IBM at about the beginning of  
14 September '74. Is that still correct?

15 A In the area of charter, Mr. Chalenski, he has a lot of  
16 figures and documents which, frankly, I haven't had  
17 time to review this morning and I am not really in a  
18 position to answer. That is his area and he does have  
19 considerable information on that for you.

20 Q Well, to your best information then, yesterday's  
21 answer you made is correct?

22 A For my best information.

23 Q And with reference to the Public Loan charter flights,  
24 do you have any information as to how many charter  
25 flights you were flying for them in the beginning of



1 September '74?

2 A Again, he has a complete presentation on that which  
3 details that. He will make that in his testimony.

4 Q Now, scheduling for flights to Washington, I inquired  
5 about in particular. You presently fly five flights  
6 per day between Binghamton and Washington, Monday  
7 through Friday, is that correct?

8 A That's correct.

9 Q And how many flights do you fly on weekends?

10 A There are a total of four flights on weekends.

11 Q Now, 1970, you were flying three daily flights, Monday  
12 through Friday, to Washington, is that correct?

13 A I can't be certain.

14 MR. RICHARDS: Excuse me. Was that  
15 1970?

16 MR. CHALENSKI: Yes.

17 MR. SHANAHAN: 1970. I thought  
18 that what we were interested in was '74 and '75.

19 THE COURT: Overruled. Go ahead.

20 BY MR. CHALENSKI:

21 Q When did you add the fourth flight?

22 A I can't say. I went back to '74 on this research and  
23 I would have to do some more research to determine it.

24 Q Do you have the entire '74 schedule there?

25 A I have a part of it, yes, sir, not the entire, no.

1 Q What is the effective date of that schedule?

2 A I have a schedule effective 9/3/74.

3 Q Okay. How many flights, Monday through Friday, was  
4 commuter flying to Washington at that time?

5 THE COURT: Could you come up, please?

6 (Off-the-record discussion at bench.)

7 BY MR. CHALENSKI:

8 Q Mr. Bell, on September 3rd, 1974, how many flights were  
9 you flying to Washington, Monday through Friday?

10 A There were six flights involved.

11 Q Daily, Monday through Friday?

12 A Daily, Monday through Friday.

13 Q Those are regularly scheduled flights?

14 A Yes, they were.

15 Q And when did you reduce it to five flights?

16 A That was reduced 11/1/74.

17 Q And do you know when it was increased to six?

18 A I don't recall, no, I don't go back that far in the  
19 information I have.

20 Q Now, with regard to the firings for this purpose, all  
21 of Josephson and Slough and Baan and Sholl, Lamos,  
22 Williams, Larimore and Hummel, did you recommend that  
23 any of those persons be fired to Defendant Winston?

24 A We always discuss the people. In the case of  
25 Josephson, I recommended, yes.

1 Q And in the others, did you recommend that they be fired?

2 A Well, I didn't oppose it in very many cases.

3 Q Was the discussion of the nature -- well, can you please  
4 tell me, was there a typical discussion with reference  
5 to each of these?

6 A Well, I would be asked or indicated to me the people  
7 that he felt should go and I was offered the option of  
8 expressing my opinion on those people and if I had  
9 anything to say about it.

10 Q So he came to you with a name and said, do you have  
11 anything to say about whether they should go?

12 A In most cases, I would say that is correct.

13 Q In what cases did that not happen, just in reference to  
14 the pilots I mentioned.

15 A I would say, generally, that was the sequence in those  
16 cases.

17 Q So he came to you and said Slough ought to go, what do  
18 you think about that, Josephson ought to go, what do  
19 you think about that, Baan ought to go, what do you  
20 think about that; is that correct?

21 A It would be something like that, yes, sir.

22 Q Sholl ought to go?

23 A I had no prediscussion on Sholl at all as far as his  
24 termination. He was terminated in my absence.

25 Q Lamos ought to go?



- 1 A Lamos was the same thing, I was on a trip at the time  
2 when he was terminated and when I came back he had been  
3 terminated.
- 4 Q Williams ought to go?
- 5 A We discussed Mr. Williams.
- 6 Q Hummel and Larimore?
- 7 A We discussed them.
- 8 Q Again, the same context, Defendant Winston came to you  
9 and said, what are your feelings on whether these should  
10 go?
- 11 A Yes.
- 12 Q Did he ask you whether other employees should go?
- 13 A We talked about a number of employees, I am sure, in  
14 every discussion.
- 15 Q Okay. Do you recall the names of the other employees  
16 that you discussed?
- 17 A No, I don't.
- 18 Q Did he come to you, for example, and say, should this  
19 other employee go?
- 20 A I'm sure he probably did.
- 21 Q Now, with reference to your testimony yesterday, in  
22 regards to Slough, is there any portion of that  
23 testimony that you would care to change at this time?
- 24 A Not that I can recall, no.
- 25 Q Your testimony yesterday was accurate?

1 A As far as I can recall.

2 Q Now, you reviewed the file of Mr. Slough and did not  
3 find any notes in the file concerning any prior non-  
4 performance of duties, is that correct? Do you recall  
5 ever making any such notes?

6 A No, I didn't make any notes.

7 Q So we can assume that those notes never existed?

8 A That's right.

9 Q On your direct testimony you mentioned that Mr. Kleitz  
10 and Reeve complained to you regarding Slough's radio  
11 procedures.

12 A Yes, they did.

13 Q When did they complain to you?

14 A During the summer of '74.

15 Q You also mentioned something about Slough being within  
16 a probationary period. What is the meaning of a  
17 probationary period and the terms in the context of  
18 Commuter Airlines?

19 A Generally, the first-year copilots are considered  
20 probationary, that is our policy.

21 Q What does it mean once he gets past the probationary  
22 period?

23 A In regards to copilots, sir?

24 Yes.

25 A Well, it means past that that he would be considered,

1 at least the company would consider that they might  
2 consider him as captain material within that operation.

3 Q Nothing else, nothing to do with hiring and firing?

4 A Well, during the probationary period, the company feels  
5 that they can terminate the men.

6 Q At will?

7 A In general, yes.

8 Q For whatever reason?

9 A For cause, yes, sir.

10 Q For cause. Is it for whatever reason the company feels  
11 like or for cause?

12 A For whatever reason the company feels is appropriate.

13 Q At whim?

14 A Not at whim, no.

15 Q Well, are we back then to some cause?

16 A Well, there is always some cause involved.

17 Q Is the degree of cause any different between  
18 terminating a fellow who has not passed his probationary  
19 period and a pilot who has?

20 A Yes.

21 Q And how does that differ?

22 A Well, it is a judgment thing, really.

23 Q You would require more documentation in your file,  
24 for example, for a man who has passed the probationary  
25 period?



1 A No, not necessarily.

2 Q Well, what kind of protection does a man who passed his  
3 probationary period have against firing by the company?

4 A Well, Mr. Williams is a very good example of somebody  
5 who has passed the probationary period, and I worked  
6 very hard to give Mr. Williams an opportunity to  
7 upgrade himself and I took a great deal of extra effort  
8 above and beyond my normal responsibility to give  
9 Mr. Williams an opportunity to upgrade himself and  
10 he did not avail himself of that opportunity, so I would  
11 say he got some very special consideration.

12 Q Mr. Josephson got some very special consideration too?

13 A How was that?

14 Q Did he or didn't he?

15 A I would say he did, yes.

16 Q He was past his probationary period, wasn't he?

17 A Yes, he was.

18 MR. CHALENSKI: Your Honor, may I  
19 obtain those files from the clerk's office?

20 THE COURT: Yes.

21 (Mr. Chalenski leaves the courtroom  
22 and returns.)

23 BY MR. CHALENSKI:

24 Q These are the personnel folders which you had yesterday.  
25 Now, for what reasons was Mr. Josephson fired?

1 A I summarized the reasons in that --

2 Q Well, before you look at the file, Mr. Bell, do you  
3 recall your testimony as to the reasons that Mr.  
4 Josephson was fired?

5 A I think there were a number of reasons, availability  
6 was one and the fact that he had a great deal of  
7 problems working with his fellow people and certain  
8 things on his flying were mentioned, although he was  
9 considered average, and his noncompatibility with the  
10 operation.

11 Q He wasn't fired because you were overstaffed?

12 A That was why he was selected among those to be  
13 terminated at that time, sir.

14 Q Okay. Anything about poor radio procedure?

15 A Do you want me to look at the file or not, Mr.  
16 Chalenski?

17 Q Not yet.

18 A I'm sorry?

19 Q Was he fired because of poor radio procedure?

20 A I don't believe that was a major factor.

21 Q It may have been a factor?

22 A I don't believe it was a major factor, but it may have  
23 been involved.

24 Q Was he fired because of his failure to keep up the  
25 Canada air volume, the FAA forms?

- 1 A That was a contributory thing, certainly.
- 2 Q His flight to Newark and his refusal to fly in
- 3 thunderstorm activity, was that a reason?
- 4 A Certainly that was a consideration, it was discussed.
- 5 Q That he traded jobs with somebody else or substituted
- 6 his name on a schedule without your permission, was
- 7 that one of the reasons?
- 8 A The fact that he had a repeated history of that, yes,
- 9 sir.
- 10 Q That he traded jobs without reciprocating with the
- 11 other pilots?
- 12 A That was also, again, a history of that.
- 13 Q Now, you have already testified that where a problem
- 14 is chronic, would that be the same thing as when there
- 15 is a history of it?
- 16 A I would think it would be similar.
- 17 Q That you put a note in the file, and that when a
- 18 problem is serious, you put a note in the file. Now,
- 19 are there any notes in Mr. Josephson's file?
- 20 A I have one here, plus a summary.
- 21 Q Well, what does the note say?
- 22 A It says, on Saturday 2/16, called in for duty at
- 23 3 p.m., was informed that you were out of town. I have
- 24 a copy of the roster for that day and it shows his
- 25 name.



1 Q 2/16/74?

2 A Yes, sir.

3 Q That is about eight months before he was fired. Is  
4 that the only note?

5 A That is the only note, but that is repetitive of his  
6 pattern. There were many times.

7 Q Repetitive of the pattern of not being compatible with  
8 office help?

9 A I summarized that information at the time.

10 Q Wait, Mr. Bell. I am asking you what notes were in  
11 the file.

12 A That is the only note in the file, sir.

13 Q Is that repetitive of a failure to maintain the  
14 Canada air volume and federal aviation forms?

15 A No.

16 Q Is that repetitive of any refusal to fly in inclement  
17 weather?

18 A No.

19 Q Is that repetitive that he traded jobs without telling  
20 you?

21 A I would say it would be.

22 Q That he changed the schedule without telling you?

23 A Certainly is representative of his disregard for the  
24 schedule.

25 Q He was late that time?

- 1 A He was not available.
- 2 Q He just didn't show up for flight?
- 3 A He just wasn't available when he was scheduled to be  
4 available.
- 5 Q Oh, wait. That means that you called him at home on  
6 one of these periods he was supposed to be on duty?
- 7 A No, that wasn't correct.
- 8 Q What did not available mean?
- 9 A It meant that he was assigned on a roster for  
10 availability and there was a charter came in, it would  
11 have been his duty. He was called and he was simply  
12 not available, he was out of town. Whoever answered  
13 the phone at the domicile informed us that he had gone  
14 out of town.
- 15 Q Don't know the reason?
- 16 A Sir?
- 17 Q Do you know the reason?
- 18 A I don't know the reason.
- 19 Q Now, there was a summary you made at the time that you  
20 fired him. Is that backed up by anything else in the  
21 file?
- 22 A No, it isn't, that I can see here.
- 23 Q Now, when was Mr. Josephson fired?
- 24 A I am not sure. I have the date in this -- it's in the  
25 payroll. He was initially assigned in the seventh month

1 of '73. I would have to look at the payroll for some  
2 more specific --

3 MR. SHANAHAN: What was your answer?

4 THE WITNESS: Seventh month of 1973.

5 BY MR. CHALENSKI:

6 Q That would be July of 1973, is that correct?

7 A That is when he was assigned flight duty. I don't have  
8 the date on this form.

9 Q Now, is it true that there were only four copilots  
10 with more seniority than Josephson at that time?

11 A I can't say without checking my own records, sir.

12 Q Is it true that you had, only within about the past  
13 month, hired three copilots, Ivan Orr,  
14 Douglas Ton and Peter Johnson?

15 A They were hired in the recent time preceding that.

16 Q By recent, within a month?

17 A Would be a month, but I would have to check my records  
18 again.

19 Q Is it true that McDougald and Larimore and Hummel were  
20 hired about three months preceding the firing of  
21 Mr. Josephson?

22 A Again, I can't answer unless I check their dates of  
23 assignment, but I would think that is approximately  
24 correct.

25 Q In any event, all six of those names I mentioned were



1 hired after Mr. Josephson was --

2 A I believe you are correct on that, sir.

3 Q With regard to the incident in which Mr. Baan refused  
4 to take off with Mr. Solberg, there was an incident of  
5 that nature that Mr. Solberg reported to you, correct?

6 A It wasn't Mr. Baan, sir.

7 Q I'm sorry, it was Mr. Josephson.

8 A That's correct.

9 Q I apologize. Mr. Solberg reported that to you, correct?

10 A That's correct.

11 Q And did Mr. Solberg tell you that clearance closed the  
12 field for 45 minutes because of that bad weather?

13 A I don't believe he did, no.

14 Q You heard Mr. Solberg testify to that on the stand  
15 though, did you not?

16 A I did hear that, yes.

17 Q Now, you heard Mr. Solberg also testify that the  
18 conversation where Mr. Josephson refused to take off  
19 took place between Mr. Solberg calling clearance  
20 delivery and asking for clearance to take off and  
21 getting back from clearance delivery, is that correct?

22 A I heard that, yes.

23 Q And how long does it usually take to get clearance from  
24 clearance delivery?

25 A It can vary from three minutes to 30, depending on the

1 conditions.

2 Q When clearance delivery called you back, in any event,  
3 they closed the field for 45 minutes because of  
4 weather conditions?

5 A So Mr. Solberg said, yes.

6 Q Does that indicate that Mr. Josephson was right that it  
7 was unsafe to take off at that time?

8 A Not necessarily.

9 Q Well, clearance had that opinion, did they not,  
10 because they closed because of bad weather?

11 A They may have closed it because extensive deviations  
12 were in progress and the center was not accepting any  
13 more traffic. That frequently happens under that type  
14 of conditions.

15 Q Didn't you hear Mr. Solberg testify that it was closed  
16 because of the weather fronts moving through?

17 A That's right, and during that type of weather front,  
18 flights do make extensive deviations in their routes  
19 of flight, and if the air surface system cannot  
20 accommodate as many airplanes the same time, therefore,  
21 they will either stop all operations from one point  
22 or another in order to allow the system to accommodate  
23 these flights routed in devious directions from their  
24 standard routing, and so they in fact may stop all  
25 departures in a direction from an airport or from a



1 given airport within their system.

2 Q So that we don't know whether the field was stopped  
3 because of bad weather, or because what little flying  
4 could be done was already taken by other airplanes, is  
5 that correct?

6 A That's right, we don't -- I didn't hear anything  
7 indicating as to which the cause was.

8 Q And Mr. Baan was fired because, the sole reason,  
9 because you were overstaffed, is that correct, there was  
10 no criticism of his performance?

11 A Not especially.

12 Q And was he fired because he had the least seniority?

13 MR. SHANAHAN: What was that?

14 BY MR. CHALENSKI:

15 Q He had the least seniority?

16 A Not necessarily, no.

17 Q Why was he chosen?

18 A Because he had been there a very short time. The  
19 company's investment in him was very minimal and he  
20 was selected on that basis.

21 Q How long had he been there at the time he was fired?

22 A You mean present on the scene or --

23 Q In the company.

24 A Can I check his file? I can't give you exact figures.  
25 It was a couple years ago, you know.



1 Q Sure.

2 A I don't have a summary sheet here so I can't say exactly  
3 when I assigned him as a copilot, line training, so I  
4 can't say.

5 Q Well, can you give your best estimate?

6 A Couple weeks, I suppose.

7 Q Now, how much time did Mr. Slough have when he was fired?

8 A You mean time with the company?

9 Q Yes.

10 A A short period. I would have to again --

11 Q Would five or six months be fairly correct?

12 A Probably, but I will see what I have here. I show his  
13 initial assignment on 5/20/74.

14 Q And Mr. Josephson's initial assignment, do you have  
15 that before you? You said that was about July?

16 A I gave you the figure on that, sir.

17 Q It was about July '73, so Mr. Josephson had been with  
18 the company for about one year and what, three or four  
19 months by the time he was fired?

20 A I assume if that is based on the figures I gave you from  
21 my records and his date of termination, I would agree  
22 with you.

23 Q Mr. Slough had been with the company five or six months?

24 A Yes, sir.

25 Q Mr. Ton had been there a very short time, you say, he

1 had been there about the same length of time that  
2 Mr. Baan was there?

3 A Possibly, yes.

4 Q So you fired Mr. Baan because he had been there a  
5 short time and you hadn't invested much money in him.  
6 You kept Mr. Johnson who had been there about the same  
7 time. You hadn't invested much money in Mr. Johnson,  
8 either, had you?

9 A No, we hadn't.

10 Q And you fired a man who had been there about a year and  
11 three months and another about six months?

12 A That's correct.

13 Q You kept Mr. Ton who had also been there -- he came  
14 about the same time Mr. Johnson did, didn't he?

15 A Again, I assume he did but I am not -- without checking,  
16 I cannot say for sure. He had been there a short time.

17 Q Did you invest much money in training Mr. Ton?

18 A Not a great deal.

19 Q About the same you had in training Mr. Baan?

20 A Probably.

21 Q Mr. Ivan Orr, did he also come there at about the same  
22 time as Mr. Johnson and Mr. Ton?

23 A I believe the records would show that. I would have to  
24 verify the dates.

25 Q Had you invested a great deal of money training him?



1 A No, we hadn't.

2 Q About the same as Mr. Baan?

3 A I would say so, yes, s'r.

4 Q Now, for what reason was Mr. Baan hired?

5 A He was hired as a new hire captain.

6 Q Was he hired to replace anybody or to pick up  
7 additional work?

8 A He was hired to pick up some work we were anticipating  
9 at the time we hired him.

10 Q Was he hired in anticipation of Mr. Excel retiring?

11 A I'm not sure whether we were in possession of that  
12 knowledge at that time, sir.

13 Q He might or he might not have been?

14 A He might or might not have been. I can't say.

15 Q Now, he was terminated because you lost some business,  
16 is that correct, you were overstaffed, you had too  
17 many pilots?

18 A We were overstaffed and it was indicated to me that we  
19 needed to cut back.

20 Q Do you know when you hired Mr. Grenol? He was hired  
21 as a captain, was he not?

22 A Yes, he was.

23 Q Do you know when you hired him?

24 A In, I believe it was December, sir. I can't be sure.

25 Q A month and a half, two months after Mr. Baan was fired?



1 A Perhaps.

2 Q He was hired right about the time that you had expected  
3 Mr. Baan to become a captain, is that correct, or  
4 excuse me, to perform as a captain?

5 A Possibly.

6 Q You already testified that --

7 A Possibly, yes.

8 Q Did the business pick up again in December?

9 A No, there wasn't -- I can't answer that. I think that  
10 I will -- Mr. Winston should give you that information.  
11 That is his area. I don't get into it and I have --

12 Q How far ahead do you plan your business activities in  
13 determining whether to hire somebody to perform for  
14 them?

15 A It varies a great deal with the conditions. Some  
16 programs are planned way in advance and some aren't.

17 Q To your knowledge, was Mr. Grenol hired for any specific  
18 program?

19 A I believe he was hired after Mr. Lamos was gone.

20 Q My records here show that Mr. Lamos received his check  
21 the same week, his last check the same week that  
22 Mr. Grenol received his first.

23 A That could be.

24 Q So that Mr. Grenol was hired because Mr. Lamos had been  
25 fired?

1 A I believe that is correct, sir.

2 Q Now, with reference to Mr. Sholl, you testified that  
3 you taught him ground school on the Metro?

4 A No, I did not testify to that, sir.

5 Q Did a factory representative teach the ground school?

6 A Yes, he did.

7 Q You were present, in fact, when the factory repre-  
8 sentative taught the ground school?

9 A I was a student in the same ground school. I attended  
10 the same course.

11 Q And you recall him being there?

12 A Yes, I do.

13 Q When did that take place?

14 A Again, I think he has a diploma in his file. I think  
15 I can probably find that.

16 Q Please.

17 A May 12th, 1974.

18 Q Now, was that a one or two-day ground school?

19 A It was a two-day course.

20 Q Was that a special course for the Metro?

21 A Yes, it was.

22 Q And can you distinguish that from a ground school which  
23 a copilot is normally given upon commencing employment  
24 with the company?

25 A Yes, it is separate from that, sir.

1 Q Now, Mr. Sholl was fired, it is alleged that he was  
2 unsafe around aircraft -- excuse me. Were you present  
3 when Mr. Sholl was fired?

4 A No, I wasn't.

5 Q Do you know the reasons he was fired?

6 A He was fired as a result of this door damage.

7 Q Was the company overstaffed at that time?

8 A We still were underutilizing our people to some degree.

9 Q Now, you testified on direct examination, this is in  
10 reference to Mr. Lamos -- well, excuse me. Were there  
11 any other reasons besides this door, this door  
12 incident with Mr. Sholl that he was fired for any poor  
13 performance in the past on his part?

14 A That is the sole reason I am aware of, sir.

15 Q How would you characterize his performance before that?

16 A It was reasonable, acceptable.

17 Q Now, with reference to Mr. Lamos, you indicated that  
18 you could take a test ride in 20 minutes?

19 A That's correct.

20 Q Now, you heard both Mr. Lamos and Mr. Briggs testify  
21 on direct that they would take half an hour, and in  
22 Mr. Lamos' case, up to 45 minutes, and in Mr. Briggs'  
23 case, up to an hour to test fly an airplane?

24 A There are a great many types of test flights, Mr.  
25 Chalenski, and I think that we need to differentiate



1           which type of check flight, what we are test flying  
2           the airplane for.

3       Q     Mr. Lamos testified he knew it was an engine check that  
4           had to be made, is that correct?

5       A     I believe he did.

6       Q     Who determines what maneuvers have to be performed  
7           in a test flight?

8       A     The mechanic advises you what needs to be checked, and  
9           oftentimes he rides with you and advises you when he  
10          is satisfied with what he is getting or tells you what  
11          he wants you to check while you are out there.

12      Q     Okay. And the mechanic determines what is to be done  
13          on the test ride?

14      A     He normally does, yes.

15      Q     Now, you have flown engine checks with mechanics aboard?

16      A     Sir?

17      Q     You have flown engine checks with mechanics aboard?

18      A     Oh, yes.

19      Q     And have you remained in the test pattern on all of  
20          those checks?

21      A     Not on all of those checks, no, sir.

22      Q     I believe test pattern is incorrect. Would it be  
23          flight pattern?

24      A     Traffic pattern.

25      Q     Traffic pattern. Not in all of them? You'd leave the

1 traffic pattern in some of those engine checks?

2 A Some you do, yes.

3 Q Now, is your 20 minutes for a test ride from the time  
4 that you first report to the landing gate or the terminal  
5 and does that include going over to mechanic's office,  
6 confer with the mechanic to find out what is wrong,  
7 going to the plane, getting into the plane, getting  
8 set up, taking it out, taxiing off, testing it, coming  
9 back and coming back to the hangar, making your report?

10 A I believe I said that was block-to-block time, sir.

11 Q So 20 minutes you would do all of that?

12 A I didn't say that. It would be from the time I roll  
13 the airplane off the hangar ramp under its own power  
14 until I parked at the gate. If I had the mechanic  
15 with me, if he was satisfied, we were both satisfied,  
16 he could sign it off and I could be on my way with my  
17 passengers.

18 Q Do you preflight an airplane before you even start it up?

19 A Sir?

20 Q Do you preflight an airplane before you even start it up?

21 A Do you preflight one?

22 Q Do you?

23 A We also have personnel to cover those. In this  
24 particular case, the mechanics would have had it  
25 preflighted and ready to go.



1 Q So all you would have had to do was talk to the  
2 mechanic then and hop in the plane and start it up and  
3 take off?

4 A Well, I would have probably preferred to bring him with  
5 me on that particular occasion. I generally do.

6 Q Then the 20 minutes would not include the time to get  
7 to the hangar, to talk to the mechanic, to get into  
8 the plane, to start it up and to get it into position  
9 to leave the repair area, is that correct?

10 A It would include the time it would take from the time  
11 the airplane was on the ramp in front of the hangar and  
12 I had the mechanic in my presence until we got back to  
13 that ramp, over to the main ramp with the usual  
14 efficiency.

15 Q Now, there came a time when Mr. Williams was fired. Do  
16 you know the reasons that he was fired?

17 A Well, he was fired because he had not made progress.  
18 He had not qualified himself to be a captain or to be  
19 qualified to be a captain.

20 Q Was he fired because the company was overstaffed?

21 A He was not replaced, so I would say he was part of the  
22 overall reduction.

23 Q The attitude to passengers, that was brought out on  
24 cross-examination by Mr. Richards, I believe, was he  
25 fired for that reason?



1 A Mr. Winston mentioned that among his causes.

2 Q I missed the last part.

3 A Among the causes Mr. Winston cited at that time, that  
4 was included, yes, sir.

5 Q And late to early morning flights?

6 A That was a habit of Mr. Williams.

7 Q Do you have Mr. Williams file in front of you?

8 A It is here.

9 Q There is a note in Mr. Williams' file regarding being  
10 late to flights, is there not?

11 A There is one note, I believe.

12 Q What is the date of that note?

13 A I can't say until I find Mr. Williams' file. I seem  
14 to have -- I don't seem to have Mr. Williams' here with  
15 me. I don't see Mr. Williams' in this group, Mr.  
16 Chalenski, I'm sorry.

17 MR. CHALENSKI: May I check with the  
18 clerk a minute?

19 Your Honor, may I be excused for  
20 a second?.

21 A Wait a minute, I'm sorry, I got it. In answer to your  
22 question, yes, there is a note in Mr. Williams' file.

23 Q That regards being late for a flight, is that correct?

24 A Yes, it is.

25 Q "Ron Williams overslept, delayed flight 100 approximately

1 20 minutes."

2 A That's correct.

3 Q What is the date on that note?

4 A 1/7/74.

5 Q More than a year before he was fired?

6 A That's correct.

7 Q Are there any other notes in Mr. Williams' file?

8 A No others that I see, sir, other than -- no notes on --

9 Q Does that mean since 1/7/74 he had not been  
10 chronically late?

11 A No, it certainly doesn't.

12 Q It doesn't? You just didn't put any notes in about it?

13 A That's correct.

14 Q Once a note is in, that stands for any time he is  
15 chronically late?

16 A Not necessarily.

17 Q Is there any note in there regarding his abusive  
18 attitude towards passengers?

19 A No, there isn't, that I see.

20 Q There is a letter in there which I have a copy of here --

21 THE CLERK: Government's Exhibit 42  
22 marked for identification.

23 Q I show you Government's Exhibit 42. That is a copy,  
24 and can you verify whether that is a copy of the letter  
25 in Mr. Williams' file?



1 A Yes, I believe it is. I think I saw it here when I  
2 reviewed the file, sir.

3 Q Did you know the date when that letter was sent?

4 A I could research my records. It was a period back in  
5 '71 or '72.

6 Q Do you have those records with you?

7 A No, I don't. I would have to go into a great deal to  
8 determine what period of time that was. It was a  
9 general letter that went in to everybody that worked  
10 there during that periods file.

11 MR. CHALENSKI: I offer this document  
12 into evidence.

13 MR. RICHARDS: No objection.

14 MR. SHANAHAN: I have no objection.

15 THE CLERK: Government's Exhibit 42  
16 received in evidence.

17 BY MR. CHALENSKI:

18 Q Government's Exhibit 42 reads, "Dear Ron, I would like  
19 to take this opportunity to thank you personally for  
20 the fine efforts you have made over the last year in  
21 improving your work attitudes and level of cooperation."

22 And the last paragraph reads:

23 "I feel this reflects a maturing of  
24 professionalism and I count it among the assets of  
25 this organization."



1 Is this the only reference in that file  
2 to Mr. Williams' work attitude?

3 A Apparently, yes.

4 Q Now, Mr. Williams was not replaced, you say, so he was  
5 probably part of the overall reduction, is that correct?

6 A That's correct.

7 Q Do you recall when Mr. Potter was hired?

8 A No, I can't recall specifically.

9 Q Do you have those records with you? Do you see it  
10 there?

11 A I'm looking for it. I thought I saw it last night.

12 MR. CHALENSKI: Your Honor, there may  
13 be additional files in the clerk's office.

14 A It should be in the group right here --

15 (Mr. Chalenski leaves courtroom and  
16 returns.)

17 A The earliest flight check I gave him was on February 10  
18 of '75.

19 Q So it was around that time, you are not sure exactly  
20 when?

21 A Could have been a day or two.

22 Q And when was Mr. Williams fired?

23 A I believe we established that day, didn't we?

24 Q January 9, 1975?

25 A Whatever.

- 1 Q So within a month you hired another copilot?
- 2 A Well, he was hired as a captain, sir.
- 3 Q Potter was hired as a captain?
- 4 A Yes, sir.
- 5 Q Now, Mr. Grenol was hired as a captain about two weeks
- 6 or so before Mr. Williams was fired?
- 7 A Probably.
- 8 Q Did you hire copilots to work with those two captains?
- 9 A Did I hire copilots?
- 10 Q Copilots to work with those two captains.
- 11 A No, I didn't.
- 12 Q Instead your company got rid of copilots?
- 13 A That's right, yes, copilots were laid off if that is
- 14 your question, reduced in number.
- 15 Q More captains, less copilots.
- 16 You mentioned something in your direct
- 17 about checking a flight schedule and finding out that
- 18 Mr. Williams had flown only seven times in a two-month
- 19 period. When did you check that flight schedule?
- 20 A When did I check it?
- 21 Q Yes.
- 22 A Following his testimony here.
- 23 Q Following Mr. Williams' testimony?
- 24 A That's correct.
- 25 Q So you didn't know anything about that when he was fired?



1 A It was known in a general way that he wasn't flying very  
2 much and Mr. Winston was quite firm about that, and I  
3 agree with him, it was true, but that was not by  
4 specifically checking. I checked following his  
5 testimony and it was absolutely correct.

6 Q Was it true that you didn't check the records to see  
7 how often Mr. Williams flew before you fired him?

8 A We knew from experience --

9 Q Mr. Bell, did you check the records?

10 A No, we didn't check the records.

11 Q Is there anyone in the company, any copilot who had  
12 more seniority than Mr. Williams?

13 A No, there wasn't.

14 Q Now, there was a meeting in 1973 between you and the  
15 defendant, Winston, and the copilots; is that correct?

16 A Yes, that's correct.

17 Q You testified that Mr. Williams was the spokesman for  
18 the copilots at that time?

19 A Yes, he was.

20 Q Did he appear to represent the copilots, speak for them?

21 A I would say so, yes.

22 Q Now, when did that meeting take place?

23 A I have some notes of that meeting that I took into that  
24 meeting in his file. I will see. If it is not here,  
25 I will have to get another reference.



1 Q There is a note in Mr. Williams' file about that meeting,  
2 correct?

3 A According to the memorandum that went out, it was  
4 October 17th, 1973.

5 Q And it was at that meeting you contend you advised the  
6 copilots that if they didn't make captain in three --  
7 or if they didn't get their ATR in three years, they  
8 would be out?

9 A They were subject to dismissal, yes.

10 Q Now, the date of that meeting you said was October '73?

11 A That's the date of the memo and advisement and my other  
12 material.

13 Q When did Mr. Williams become a pilot for your company?

14 A It is somewhat of a hard date to fix, I believe, from  
15 this material, but you have some records. What do you  
16 show?

17 Q Well, I didn't go back that far, if I recall his  
18 testimony correctly, it was sometime in '68.

19 A Probably '68 or '69 is what I was going to say.

20 Q So the time you had this meeting and discussed that a  
21 copilot is subject to termination if he doesn't get his  
22 ATR in three years, Mr. Williams had already been a  
23 pilot for your company for more than three years?

24 A Certainly not on a full-time basis. It had been  
25 intermittent service.

1 Q Okay. So that is a distinction as far as you are  
2 concerned, that he was not a full-time pilot for three  
3 years as of October '73?

4 A No, he certainly wasn't.

5 Q Well, does it make a difference or doesn't it?

6 A Well, yes, I would think it would make some difference.  
7 When he is working part time, he is carrying an  
8 occasional need and not really involved in the long-  
9 term programs. If he comes on full time, he should  
10 become involved in those.

11 Q If he had been a full-time pilot for three years in  
12 October of '71, would you have expected him to raise  
13 no objection to being automatically subject to  
14 termination?

15 MR. SHANAHAN: I object to the form  
16 of the question.

17 THE COURT: Sustained.

18 BY MR. CHALENSKI:

19 Q Mr. Williams was pushing for this program, is that  
20 correct, the three pay raises?

21 A He was pushing for certain changes in wages and benefits  
22 and this was what we presented to him and the group of  
23 contemporaries, and that was what was accepted at that  
24 time.

25 Q Did he accept it?



1 A Yes, he did, they all accepted it, un versally, at  
2 the meeting, and were very pleased about it.

3 Q Including Mr. Williams?

4 A That's correct.

5 Q Is it reasonable for a person to be pleased about  
6 something that makes him immediately subject to dis-  
7 missal?

8 MR. SHANAHAN: I object to that as  
9 argumentative and improper in form.

10 THE COURT: Sustained.

11 BY MR. CHALENSKI:

12 Q When did Mr. Williams begin full-time performance as  
13 a copilot?

14 A I can't tell you that, sir, without going into those  
15 payroll records in some depth. I would have to verify  
16 those figures.

17 Q There is a note in Mr. Williams' file.

18 A Okay, there is something on that. He was back full time  
19 in 1970.

20 Q What month of 1970?

21 A October.

22 Q Your meeting was in October 1973?

23 A That's what the memo says, sir.

24 Q Mr. Williams had three years as a full-time pilot at  
25 the time you had that meeting?



1 A Apparently.

2 Q And how, you have testified on direct that you had a  
3 discussion with Mr. Williams in early '74 and you were  
4 talking to him about the ATR, and I don't recall how  
5 you prefaced it, but you said something to the effect  
6 that you would have to get the ATR and that if he did  
7 not -- or excuse me, if you wanted to remain --  
8 you said something to the effect, this would be in early  
9 '74, you had a discussion with him in which you told him  
10 that he had the uppermost grade and if he intended to  
11 become a captain he would have to become technically  
12 qualified?

13 A That's right, sir.

14 Q Is that accurate?

15 A I believe so.

16 Q Is that all you told him?

17 A I can't say at this distance whether that's all I told  
18 him. I probably said several things to him at that  
19 time.

20 Q That is what you recall?

21 A That was the essence of the conversation.

22 Q I note, particularly, that you didn't say if he intended  
23 to remain with the company he would have to become  
24 technically qualified?

25 A I didn't include that in my testimony, no.

1 Q Which is more important, to remain with the company, to  
2 remain with your employment or to progress?

3 A Which is --

4 MR. SHANAHAN: I object to that as  
5 argumentative.

6 THE COURT: Sustained.

7 BY MR. CHALENSKI:

8 Q Now, in discussing this plan on direct, you said some-  
9 thing about you considered that the plan and that it  
10 would mean something that they would either get their  
11 ATR or they would choose to seek another opportunity,  
12 is that correct?

13 A I believe so, yes.

14 Q Is there anything more to that?

15 A I believe I referred to it as an up and out program  
16 which I have consistently --

17 Q I am concerned about the word "choose." Is that the  
18 word you used?

19 A I'm sorry. Do you want to --

20 Q Choose, or they would choose to seek another opportunity.

21 A Or they would choose to seek another opportunity? They  
22 might choose, yes, that's been the case in instances.  
23 They have chosen another opportunity.

24 Q I'm talking about on your direct. You didn't say they  
25 would have to seek another opportunity?



1 A They would have to? No, I guess I didn't say that, no,  
2 sir.

3 Q Is there any company memoranda to the effect that if a  
4 copilot did not get his ATR in three years he would be  
5 fired?

6 A I don't believe so, no, sir.

7 Q Nothing in writing?

8 A There is memorandum on the pay increase itself, that it  
9 was issued at that time, I believe.

10 Q Does that say anything about termination if you haven't  
11 got your ATR in three years?

12 A I don't believe it does, no.

13 Q So then the sole reason that Mr. Williams was terminated,  
14 I guess there are two now, the ATR and being late for  
15 flights; is that correct? Instead of being overstaffed?

16 A That was among the reasons for his selection in the  
17 overall reduction of staff.

18 Q Was the ATR the biggest factor, his failure to obtain it?

19 A The staff reduction was going on and he was selected to  
20 be included in that because he hadn't obtained his ATR  
21 in spite of a great deal of effort on my part.

22 Q That was the biggest factor, right?

23 A In the selection for somebody to be relieved at that time.

24 Q What copilots had their ATR at the time Mr. Williams was  
25 fired?



- 1 A I can't recall, sir.
- 2 Q Did Mr. Larimore have his ATR?
- 3 A Yes, he did.
- 4 Q Did any other pilot have his ATR at that time?
- 5 A I can't say for sure.
- 6 Q What is your best recollection?
- 7 A Probably not.
- 8 Q Only one copilot had his ATR at the time Mr. Williams
- 9 was fired?
- 10 A That's correct.
- 11 Q How long did Mr. Larimore remain with the company after
- 12 Mr. Williams was fired?
- 13 A Approximately another month after Mr. Williams -- I can't
- 14 tell without referencing the date.
- 15 Q So Mr. Williams was fired because he didn't have his ATR,
- 16 and the only copilot who had his ATR was among the next
- 17 two copilots fired?
- 18 A That's correct.
- 19 Q Now, when was Mr. Larimore hired?
- 20 A Again, without checking --
- 21 Q Could you, please?
- 22 A I have the date of his initial check here as 6/10/74,
- 23 so it would be a few days preceding that.
- 24 Q Did Mr. Johnson and Mr. Ton have less seniority than
- 25 Mr. Larimore at the time he was fired?

1 A I would think they did.

2 Q But you chose Mr. Larimore?

3 A I didn't choose Mr. Larimore.

4 Q Oh. Did you have anything to do with recommending that  
5 Mr. Larimore be fired?

6 A I had advised Mr. Winston of this incident with remarks  
7 and he was somewhat unhappy about that.

8 Q Excuse me, I didn't hear your last --

9 A I advised Mr. Winston of Mr. Larimore's remark concerning  
10 him and he was somewhat unhappy about that.

11 Q How did you hear about that remark?

12 A I heard that from Captain Harrington.

13 Q So Mr. Larimore was told that he was being fired because  
14 of overstaff reasons; the real reason was because he  
15 called Mr. Winston a little SOB?

16 A No, that was the reason, one of the reasons for his  
17 selection in the reduction of staff that was taking  
18 place.

19 Q Besides that, was there any adverse comments about  
20 Mr. Larimore's performance?

21 A No.

22 Q Now, if there had been adverse comments about a person's  
23 performance, would it be natural to choose him over  
24 Mr. Larimore, all other things being equal?

25 A I'm sorry?



1 Q All other things being equal, seniority?

2 A What about all other things being equal, seniority?

3 Q Okay. An adverse comments on a person's performance,  
4 would that cause him to be chosen over Mr. Larimore?

5 A Possibly.

6 Q Or fired?

7 A Possibly.

8 Q Was Mr. Louis hired at the same time Mr. Larimore was?

9 A I can't recall.

10 Q Can you check?

11 A I will try. The date of his first flight check was  
12 5/20/74.

13 Q Was that right about the same time that Mr. Larimore  
14 was, is that right?

15 A That's correct.

16 Q Were there any adverse comments in the file about Tom  
17 Louis?

18 A I will check. A couple.

19 MR. CHALENSKI: I would like to have  
20 those marked.

21 THE CLERK: Government's Exhibit 43  
22 marked for identification.

23 (Government's Exhibit No. 43 was  
24 marked for identification.)

25 MR. CHALENSKI: I offer Government's



1 Exhibit 43 in evidence.

2 MR. RICHARDS: No objection.

3 THE COURT: Received.

4 THE CLERK: Government's Exhibit 43  
5 received in evidence.

6 (Government's Exhibit No. 43 was  
7 received in evidence.)

8 BY MR. CHALENSKI:

9 Q Now, was Mr. Louis fired any time prior to July of '75?

10 Is he still with the company?

11 A No, he isn't.

12 Q Was he fired any time around the time Mr. Hummel and  
13 Mr. Larimore were fired?

14 A He resigned a short time after they left, sir.

15 Q He was there when Mr. Hummel and Mr. Larimore were  
16 fired and he was retained in reference to firing  
17 Mr. Larimore and Mr. Hummel?

18 A I believe that is correct, sir.

19 Q There is a note in Mr. Louis' file dated December 1974.  
20 That would be just about two months before?

21 A I would think so, yes.

22 Q Louis went on unauthorized LOA, that is, leave of  
23 absence?

24 A I believe so.

25 Q He was to be away two days, to call if he wanted

1 further LOA, did not call, stayed away two weeks. Note  
2 dated 12/31/74, first officer, Tom Louis, was scheduled  
3 for flight 158 at 8 o'clock, 12/30/74, did not show for  
4 flight.. Had to call First Officer Ton to fly the  
5 departure. Delayed 20 minutes. Captain Excel.

6 So those two notes are in the file of  
7 a pilot you kept?

8 A Yes.

9 Q Did Mr. Winston come to you and say we have to lay off  
10 a couple more copilots, who should they be, at that time?

11 A At that time I think he pretty much informed me who they  
12 were to be.

13 Q Did Winston, Defendant Winston ever have a conversation  
14 with you concerning the value of Larimore to the company?

15 A I am sure we had many conversations about all the people  
16 we had.

17 Q Now, did you hear Mr. Larimore on direct testify that  
18 he was told by Mr. Winston that he and another copilot  
19 would be of least value to the company?

20 A Yes, I heard him say that, sir.

21 Q Did you advise Mr. Winston that Mr. Larimore was one of  
22 the persons of least value?

23 A No, I didn't.

24 Q That was a determination that Mr. Winston reached  
25 without conferring with you?



1 A He had some very strong feelings on the matter, and that  
2 was the way he felt.

3 Q How long has Harrington been with the company?

4 A A number of years.

5 Q '61, '60, something like that?

6 A '60, sometime back in the early 60's.

7 Q Darn near as long as you have?

8 A Not quite.

9 Q Are you good friends?

10 A I know him fairly well.

11 Q Are you good friends?

12 A We are friends.

13 Q Mr. Harrington told you about the conversation that he  
14 had with Larimore and the name that Larimore called  
15 the Defendant Winston, correct?

16 A That's correct.

17 Q Were you present at any other conversations which  
18 Harrington had regarding the organizational efforts  
19 between you and the Defendant Winston and Harrington?

20 A In what period, sir?

21 Q From any time from September 1974 through February of  
22 1975.

23 MR. SHAWHAN: Could I have that  
24 repeated, please?

25 (Pending question read by the reporter.)



- 1 A Conversations in regard to what, Mr. Chalenski?
- 2 Q Organizational efforts of pilots.
- 3 A I am sure that I had been present at some conversation.
- 4 Q Harring spoke to the Defendant Winston concerning the
- 5 organizational efforts?
- 6 A I am sure it was discussed. Almost every pilot in the
- 7 place did talk to Mr. Winston and myself from time to
- 8 time.
- 9 Q Did not the Defendant Winston speak with John
- 10 Harrington concerning starting up a company union?
- 11 A Not to my knowledge.
- 12 Q Was John Harrington in favor of a company union?
- 13 A It had been discussed at one point in time. I don't
- 14 know whether he was in favor of it or not.
- 15 Q On the Larimore occasion, Harrington told you what
- 16 happened and were you the one who then related it to
- 17 the Defendant Winston?
- 18 A On that particular occasion, yes, sir.
- 19 Q Now, with regard to Mr. Hummel, he was also fired
- 20 within two days of Mr. Larimore?
- 21 A That's correct.
- 22 Q Two days later than Mr. Larimore?
- 23 A I believe so, yes, sir.
- 24 Q Now, were you present when Mr. Hummel was fired?
- 25 A I believe I was, yes.

1 Q And was he fired because of overstaffed reasons also?

2 A Yes, sir.

3 Q Were there any other reasons?

4 A Well, there were reasons he was selected to be terminated  
5 among the overstaffed group.

6 Q Okay. What were those reasons?

7 A There had been some availability problems and he had  
8 some common sense problems, I felt, somewhat.

9 Q Any other problems?

10 A He had not gotten his uniform which I had inquired of  
11 him about, I sent an inquiry to him about. I inquired  
12 of him and then sent --

13 Q In December, is that correct, you inquired of him?

14 A That's correct.

15 Q And he told you it was on order?

16 A That's what he told me, yes.

17 Q Well, you mean by that --

18 A I inquired of Captain Harrington who handles the  
19 uniform ordering, is it true that Mr. Hummel's uniform  
20 is on order, he said no, he hasn't ordered one.

21 MR. CHALENSKI: Your Honor, I request  
22 the remark on direct be stricken. I don't recall  
23 Mr. Hummel being inquired on his direct as to whether  
24 he had ordered any uniforms, and this is an attempt  
25 to show that he lied. The witness wasn't --



1 THE COURT: Overruled. Please put  
2 your questions, Mr. Chalenski.

3 BY MR. CHALENSKI:

4 Q Was a lack of uniform stated to Mr. Hummel during the  
5 course of his firing interview?

6 A I can't recall.

7 Q What notes are in Mr. Hummel's file?

8 A Without looking, I can't tell you.

9 Q Can you look, please?

10 THE COURT: We will take a short  
11 recess.

12 (Recess was taken.)

13 (Trial resumes.)

14 BY MR. CHALENSKI:

15 Q Mr. Bell, my last question was, were there any notes in  
16 the file of Mr. Hummel?

17 A I find one note, sir.

18 Q And what is the date of that note?

19 A The note is 1/6/75.

20 Q And Hummel apparently arrived late for flight 250?

21 A That's the indication, yes, sir.

22 Q There is something on that note about a 45-minute lead  
23 time that he --

24 A Yes, sir.

25 Q Did he cause any flight to be delayed?



1 A Not at that time, no.

2 Q And because he was late it cut into his lead time?

3 A I don't know how much lead. I think he was about 20  
4 minutes short of the flight when he was called for 45  
5 to be at that point, sir.

6 Q In any event, he didn't delay the flight?

7 A Not to my knowledge.

8 Q Is that the only note in Mr. Hummel's file?

9 A That is the only note I see.

10 Q Any note regarding his uniform?

11 A I don't see a note on that, no, sir.

12 Q Was this item of being late mentioned to Hummel at the  
13 time he was fired?

14 A I don't believe it was, no.

15 Q Was he fired for being chronically late?

16 A No, he wasn't.

17 Q So he was chosen as one of two persons to be terminated  
18 between February 17th and 19th?

19 A That's correct.

20 Q And the only reason that you mentioned that you recall is  
21 that he didn't have a uniform?

22 A That was one of the reasons.

23 Q There were others?

24 A Yes, sir.

25 Q What were they?

1 A Well, there were two occasions in Mr. Hummel's service  
2 that indicated to me some problems. He was assigned to  
3 a flight which was fairly long and it was a charter  
4 flight, and all-day flight. As a matter of fact, he  
5 requested the flight and I complied with his request  
6 and assigned him to that flight.

7 My schedule appears with all these other  
8 people and that is available and it is accessible to  
9 them. I had been out moderately late that evening and  
10 in fact was due at the airport a little after 6 in the  
11 morning and I had anticipated that there was a chance  
12 that they could run late on their flight, and in that  
13 consideration I assigned Mr. Hummel to a flight in mid-  
14 afternoon. He arrived at the airport back from that  
15 flight at approximately -- a figure that was approximately  
16 15 minutes over his duty time.

17 Now, that would have put him into  
18 requiring another hour or so beyond his schedule I  
19 had posted for him. This was sometime after midnight  
20 and I was due to get up at 5 o'clock in the morning,  
21 and Mr. Hummel decided that it was pretty appropriate  
22 to call me at that hour of the night and wake me up  
23 and inform me he was over duty time. So I discussed  
24 this matter with Mr. Hummel and I said, gee, you know,  
25 that wasn't a very good way to do it. I mean, it was



1 obvious from the schedule that I was going to be there  
2 at 6 in the morning. You could have amended your  
3 schedule. And he just said, well, you know, I'm  
4 supposed to let you know and so I did. Well, okay, that  
5 was fine. Subsequently, a couple weeks --

6 Q Well, this is the first reason you are telling us?

7 A This is part of the first reason.

8 Q Okay. When did this telephone call take place?

9 A I would have to check flight schedules. I could  
10 identify the flight but it would take quite a bit of  
11 digging.

12 Q Well, your best recollection with reference to the day  
13 he was fired, a week before, a month, several months?

14 A Oh, a month, a month and a half, that particular  
15 incident.

16 Q Okay. Now you are continuing to a couple of weeks later?

17 A Couple weeks, three weeks, I can't recall the exact time  
18 frame.

19 Q I'm sorry, you were continuing as to what happened?

20 A To an incident a couple weeks later, correct.

21 Q Please tell the jury about that.

22 A He came in on a Friday at approximately 9:30 at night,  
23 10 o'clock, which again would have put him about 10  
24 minutes over on a single-duty period, and I had not  
25 flown that evening, I was not scheduled in the morning.



1 He went ahead and flew the night and I said, gee, you  
2 know, now we got the other situation. You're over duty  
3 and you didn't advise me. He says well, the last time  
4 you chewed me out for it, and I explained to him that  
5 I thought it required a certain amount of common sense  
6 to tell the difference.

7 Q Did you put a note in the file about that?

8 A I did not.

9 Q Did you tell Mr. Winston about that?

10 A I probably did.

11 Q Probably did?

12 A I'm sure I did.

13 Q Do you recollect?

14 A I'm sure I did.

15 Q Now, what was the violation that Mr. Hummel committed  
16 that time, calling you and getting you out of bed, and  
17 the next time not telling you that he was over duty and  
18 causing a flight to be missed?

19 A I felt it was a lack of common sense there to not know  
20 the difference.

21 Q The difference between what, Mr. Bell?

22 A The difference between when I'm going to be there in  
23 plenty of time to change the schedule and when I am not.

24 Q You are sure you told that to Mr. Winston?

25 A I told it to Mr. Winston and I told it to Mr. Hummel.

1 Q Prior to Mr. Hummel being fired, you told that to Mr.  
2 Winston?

3 A That's correct.

4 Q Did you hear Mr. Winston mention that to Mr. Hummel at  
5 a time he was fired?

6 A I dor.'t recall him mentioning that.

7 Q Back to Mr. Larimore -- by the way, when did you tell  
8 Mr. Winston about Mr. Harrington reporting to you that  
9 Mr. Larimore had called the Defendant Winston a name?

10 A I can't recall the exact time I told him that.

11 Q Was it before Larimore was fired?

12 A It was prior to Larimore's termination.

13 Q Do you recall how much prior?

14 A Perhaps a week or two weeks.

15 Q Not less than a week?

16 A I wouldn't think it would be. You say not less than  
17 a week. I don't believe it would be less than a week.

18 Q Now, with reference to the meeting with the pilots  
19 on the morning of October 5th, 1974 --

20 A Yes, sir.

21 Q -- can you tell the jury again how you started your talk  
22 at that meeting?

23 A Yes, sir. The best I can recall, I said, "Gentlemen,  
24 I fly with you. I fly the same equipment you do. I  
25 fly the same weather you do. I don't ask you to do



1 anything with an airplane that I don't do and haven't  
2 done and won't do myself." Words to that effect.

3 "As we go about the course of our  
4 operations, we have good days and bad days, and I try  
5 to appreciate you on your good days and stand behind you  
6 on your bad days."

7 Q That is almost verbatim with what I have.

8 MR. SHANAHAN: What was the question?

9 MR. CHALENSKI: I'm sorry, it wasn't  
10 a question. I said it is almost verbatim with what I  
11 have.

12 Q Now, is it your testimony that you prefaced your talk to  
13 the copilots later that same day with the same remarks?

14 A Yes, it is.

15 Q So you told the pilots and captains and copilots just  
16 about exactly the same thing?

17 A Yes, I did.

18 Q Now, in your meeting with the captains, you also  
19 followed with a comment regarding that which is on the  
20 tape and in the transcript, "I have bent rules and  
21 regulations."

22 A I didn't say I bent rules and regulations. I said I  
23 bent rules.

24 Q "People who know that I have bent policies, I have bent  
25 rules, I have bent that for them." Is that correct?

1 A That's correct.

2 Q Now, you started this meeting by telling the captains  
3 that you fly with them?

4 A Yes.

5 Q And on your direct you testified that you fly with the  
6 captains on their check rides and on their on-route  
7 checks?

8 A And as extra crew, sir.

9 Q And as extra crew?

10 A Yes.

11 Q How often do you fly with the captains as extra crew?

12 A That will vary a great deal with the operating  
13 circumstances in any month.

14 Q And the captain would act as a copilot to you?

15 A No, I will be extra crew as a passenger, extra crew  
16 going somewhere on behalf of the company's business.

17 Q Okay. What is an on-route check?

18 A What is an on-route check?

19 Q Yes.

20 A It is a check conducted between two points, an  
21 operational type flight where the pilots provisions  
22 and conduct of overall operation, a standard line  
23 operations check.

24 Q Can you pass or fail an on-route check?

25 A I would think it would be possible to fail one.



1 Q What happens if you fail one?

2 A What happens if you fail one? It would depend on the  
3 circumstances. I would think another one could be given.

4 Q By whom? By you?

5 A By me.

6 Q But you don't know what would happen specifically, you  
7 have never failed somebody?

8 A No.

9 Q Do you know whether that pilot could continue to fly  
10 passengers if he failed in on-route check?

11 A He could be stopped, I suppose.

12 Q Now, you customarily bend rules and bend policies?

13 A I have, yes, sir.

14 Q Do you bend rules when flying in weather?

15 A No, sir.

16 Q Do you bend rules when flying an airplane?

17 A Not deliberately.

18 Q Do you bend rules when working with equipment?

19 A No, sir.

20 Q Do you bend rules with a copilot?

21 A Whose rules, Mr. Chalenski? Would you qualify what  
22 rule you are talking about?

23 Q I'm talking about what rules you were talking about,  
24 Mr. Bell.

25 A All right. Do you want me to identify a rule I might

1 be referring to?

2 Q Do you bend rules when you are flying with a copilot,  
3 a normal trip?

4 A A company rule. I have bent company rules for a copilot,  
5 yes.

6 Q Okay. Now, in what way do you bend rules with a copilot  
7 on a trip?

8 A If he reports late, I don't always make an effort about  
9 it. If he doesn't conform to the procedures that we  
10 prescribe, I may treat it as a learning experience  
11 rather than a check, which I do. If he wants to put a  
12 non-revenue passenger on an airplane who perhaps doesn't  
13 comply with the company's rule or policy, on that I may  
14 give him a little latitude on that. If he needs a  
15 personal day off, I might give him a little latitude  
16 on that.

17 Q I haven't heard you mention anything about when a  
18 copilot is flying with you. These seem to do with  
19 before flying. What about rules when a copilot is  
20 flying with you, what rules do you bend?

21 A I don't know of any I bend.

22 Q Do you bend the rules when a copilot is flying with you?

23 A Again, what rule? I indicated to you that if he was  
24 a little remiss in his procedure, I might give him a  
25 certain amount of latitude, depending on his experience.



- 1 Q You are talking about flying procedures now?
- 2 A Possibly.
- 3 Q Anything else?
- 4 A That's all.
- 5 Q That's all?
- 6 A Yes.
- 7 Q Now, you were the check pilot for the company at that
- 8 time, is that correct?
- 9 A I was one of two check pilots.
- 10 Q And Mr. Briggs ceased performing check rides about
- 11 November, December?
- 12 A I believe it was December, sir.
- 13 Q So then you became the only check pilot?
- 14 A That's correct.
- 15 Q Are there rules established for performing check rides?
- 16 A General rules, sir.
- 17 Q General rules, yes.
- 18 A Yes.
- 19 Q Are there policies established in the performance of
- 20 check rides?
- 21 A That are established in the area of check rides, yes,
- 22 sir.
- 23 Q Did you fly at one time or another with every captain
- 24 in that company in the course of a check ride?
- 25 A Yes, I have.

1 Q But when you said rules, you bent rules and you bent  
2 policies, it didn't relate to the equipment that you  
3 were flying with the captains, you have testified?

4 A Not necessarily.

5 Q It didn't lay to the flight plans?

6 A Not necessarily.

7 Q The only thing left was flying with them and you fly  
8 with the captains on check rides, the on-route checks  
9 and other times?

10 A Ture.

11 Q You are a copilot and they are a pilot, and is it your  
12 testimony that that was not meant to apply to check  
13 rides?

14 A Not necessarily, no, sir.

15 Q Is it your testimony that that applied to check rides  
16 and route checks as well as the other times?

17 A Not necessarily, no, sir.

18 Q Well, what necessarily is your testimony, Mr. Bell?

19 A It was left to their interpretation, really, as far  
20 as I am concerned.

21 Q Whatever they could dream up?

22 A That's right.

23 Q You have heard them testify to what they dreamed up.

24 A Some of them, yes, sir.

25 Q You said the FAA, on your direct, if I recall it, has



1 the option of flying one out of six check runs?

2 A That's right.

3 Q Now, I'm not sure. Did you mean that the FAA does in  
4 fact fly one out of six check rides?

5 A They generally endeavor to do that.

6 Q Excuse me, I didn't hear you.

7 A They endeavor to do that.

8 Q Do they?

9 A There have been times when they did and times when they  
10 didn't. Recently, they haven't.

11 Q In any event, the FAA does not fly on at least five out  
12 of six and it could be more?

13 A Sir?

14 Q In any event, the FAA does not fly on five out of six  
15 check rides, and it could be more?

16 A That's right.

17 Q You have testified concerning some meetings at Mike  
18 Kleitz's residence during the summer of 1974, August  
19 and September.

20 A Yes, I have.

21 Q At the second meeting you testified that the captains  
22 were discussing the pros and cons of a union.

23 A Yes, sir, a union.

24 Q And you were present?

25 A Yes, sir.

1 Q Did they appear to feel free to discuss those pros and  
2 cons in front of you?

3 A I thought so at the time.

4 Q Did you oppose the union at that time?

5 A Not specifically, no.

6 Q Yours was kind of a let's see attitude?

7 A I would say so.

8 Q When did that attitude change? Did it change?

9 A In what sense, general or specific?

10 Q Well, your apparent outward attitude towards the other  
11 captains.

12 MR. SHANAHAN: I object to the form  
13 of the question. Apparent outward attitude, I  
14 don't know what that is supposed to mean.

15 THE COURT: I don't, either.

16 BY MR. CHALENSKI:

17 Q Did you oppose a union or come to oppose a union at any  
18 time?

19 A I came to oppose the specific union.

20 Q At what time?

21 A When I learned of it being among the unions that were  
22 interested.

23 Q You are talking about the particular union that was  
24 involved in the organizational effort in the fall of  
25 1974?



1 A That's correct.

2 Q When did you learn that?

3 A Oh, prior to the meeting of the 5th. I don't recall  
4 exactly at what point I learned that that was among the  
5 unions that were going to be there.

6 Q Well, is it prior to the 2nd?

7 A I believe I learned they had some interest prior to the  
8 2nd.

9 Q And is it your testimony that your opposition developed  
10 at that time?

11 A It developed to a particular union at that time.

12 Q Who told you about that union being interested?

13 A I can't recall now who told me.

14 Q Do you recall the circumstances under which you first  
15 heard it?

16 A No, I don't.

17 Q Do you recall telling the pilots, as you have testified  
18 on direct, to feel free to attend union meetings and  
19 ask questions?

20 A I did that.

21 Q What union meetings were you talking about?

22 A It was my understanding that there would be a number of  
23 unions or more than one union approaching the pilots,  
24 and I said that you should talk with all of them and  
25 ask questions, that is the position I took.

1 Q Only one union did come in and talk, is that right?

2 A As far as I know. I can't really say, I don't know.

3 I assume that there was only one came.

4 Q And you heard about that union prior to the first meeting,  
5 is that correct?

6 A I am not certain whether it was before or after it,  
7 really, counselor. I knew about it by the 5th of  
8 October. I am sure it had been called to my attention  
9 by that time.

10 Q Now, a good number of persons testified here that they  
11 were present at that union meeting October 2nd, 1974,  
12 including Mr. Jon Harrington. Did you know Jon  
13 Harrington attended that meeting?

14 A No, I didn't, at the time.

15 Q When did you first find out that he attended that  
16 meeting?

17 A I can't say, sir. I don't recall when I first --

18 Q Well, was it soon after the meeting?

19 A Probably a day or two.

20 Q A day or two. A couple hours after?

21 A No, I wouldn't think so.

22 Q The next morning?

23 A No, I wouldn't think so.

24 Q You wouldn't think so?

25 A No, sir.



1 Q Do you deny that you knew he attended that meeting by  
2 the next morning?

3 A Absolutely.

4 Q Do you deny that you knew that there was to be a union  
5 meeting on October 2nd, 1974, in the evening, that you  
6 knew that by the morning of October 3rd, 1974?

7 A No, I didn't know about the meeting of October 2nd by  
8 the morning of October 3rd.

9 Q Your testimony is that you did not know about that  
10 meeting by the next morning?

11 A No, sir.

12 Q That is your testimony?

13 A Yes, yes.

14 Q Your testimony is yes, that you did not know about that  
15 meeting?

16 A Yes.

17 Q Do you deny that you knew that Robert Slough was involved  
18 in the organizational effort of the union?

19 A Absolutely.

20 Q Do you deny any knowledge of that letter of  
21 September 24th, 1974, as of the morning of October 3rd,  
22 1974?

23 A I deny that, sir.

24 Q That letter was not circulated to you?

25 A Wait a minute. The authorship of that letter, I saw

1 the letter, I didn't know about the authorship of the  
2 letter.

3 Q You heard nothing about who authored that letter?

4 A Absolutely not.

5 Q You heard Mr. Slough on the stand say that during the  
6 course of his firing interview, you told him that, "I  
7 don't care anything about the letter that you wrote"?

8 A That's not true, sir.

9 Q That's not true?

10 A No, sir.

11 Q You deny that you said anything of that sort?

12 A That's correct, sir.

13 Q Prior to October 2nd, 1974, had you expressed your  
14 opposition to the union, Teamsters union, to any  
15 employees of the company?

16 A Not to my recollection, but I could have.

17 Q You don't recall telling anybody you were opposed to  
18 the Teamsters?

19 A Not necessarily, no. I could have, but I don't know that  
20 I did or didn't.

21 Q So unless you told somebody about the Teamsters, is it  
22 true that the last word they heard from you on the  
23 subject was go to the union meetings and see what they  
24 have to say?

25 A That's correct.



1 Q On direct you testified that you went to a meeting at  
2 Mike Kleitz's house in the summer of 1974 and you  
3 discussed dispatching, wages, benefits and alternatives.  
4 Was that alternatives to dispatching, wages and  
5 benefits?

6 A I'm sorry, sir, was the alternative to wages and  
7 benefits?

8 Q Were the alternatives you mentioned to dispatching,  
9 wages and benefits?

10 A What was the alternative?

11 Q Yes.

12 A There was discussion of a possibility of forming a union.

13 Q That was the alternative, forming a union?

14 A It was discussed.

15 Q Any other alternatives?

16 A That was the basic alternative that was discussed, I  
17 would say.

18 Q Lee Heller is a manufacturer's representative?

19 A Bill Heller.

20 Q Bill Heller, I'm sorry. Where is his office located?

21 A Now it is in San Angelo, Texas.

22 Q During the time ground school was taught to Robert Sholl,  
23 where was it located?

24 A Robert Sholl?

25 Q I'm sorry, Robert Slough. I'm sorry, I'm confusing the

1 names. Mr. Sholl, I do mean Mr. Sholl.

2 A Mr. Sholl?

3 Q Yes.

4 A I believe it was in Wiesbaden, Germany, at that time.

5 Q Okay. At the time Mr. Hummel was receiving ground  
6 school instruction, do you know where Mr. Heller was  
7 stationed?

8 A His domicile was Binghamton, New York.

9 Q He had an office in Binghamton?

10 A In his home, yes.

11 Q Was he frequently at the area where Commuter is located,  
12 where the ground school is conducted?

13 A Yes, he was there on technical representation.

14 Q Did you ever have occasion to accept the ballot of an  
15 employee, pilot, copilot?

16 A I accepted one.

17 Q Which one?

18 A Captain Excel.

19 Q When?

20 A Approximately two days after the election.

21 Q There was testimony by some pilots of the company that  
22 there was talk of taking action to cost the company money.  
23 When did you first hear of such talk?

24 A Sometime during the fall of 1974 and I don't recall  
25 exactly when it was.



1 Q Do you recall who told you?

2 A No, I don't.

3 Q Did several people tell you?

4 A I would think more than one had mentioned it.

5 Q What action did you recall hearing at that time?

6 A I had heard discussion of first, brakes, burning up  
7 cylinders, possibility of burning up engines on starts,  
8 the possibility of landing on the duty runways,  
9 metropolitan area, thereby running up significant  
10 airport fees, bills for the company.

11 Q These were all in the fall of 1974?

12 A Fall of 1974 and spring of 19 -- or early -- in other  
13 words, in that period into say, January '75, I heard  
14 these things at various times from various people.

15 Q I'm trying to pin down when you first heard any mention --

16 A I had begun to hear this sort of thing in the fall of  
17 '74, sometime, I would think.

18 Q You would think?

19 A Yes.

20 Q Could the first time you heard of that have been after  
21 or during January '75?

22 A I don't believe so, no.

23 Q But you don't recall who told it to you earlier?

24 A No.

25 Q And under what circumstances you heard it earlier?

- 1 A No.
- 2 Q You don't have anything to pin the date down with?
- 3 A Sir?
- 4 Q You don't have anything to pin the date down earlier
- 5 than that?
- 6 A No, I don't.
- 7 Q Did you make any notes of what you heard?
- 8 A No, I didn't.
- 9 Q Mr. Bell, following the terminations of Mr. Hummel and
- 10 Mr. Larimore on February 19th, 1975, did the company
- 11 hire any copilots? And this will be before July of '75.
- 12 A I believe there were some hires up in June, as I recall.
- 13 Q Do you have that note with you, Mr. Bell, as to when --
- 14 I'm sorry, here it is. Was a copilot by the name of
- 15 Maretti hired by the company?
- 16 A Yes.
- 17 Q When?
- 18 A Well, his first paycheck shows 3/23/75.
- 19 Q Was a copilot by the name of McKean hired by the
- 20 company?
- 21 A As far as his first paycheck, it shows 4/13/75.
- 22 Q Was a copilot by the name of Joseph Maido hired by
- 23 the company?
- 24 A Yes, he was. He shows 5/4/75.
- 25 Q Was a copilot by the name of Allen Garren hired by the



1 company?

2 A Allen Garren, he was part time. He did, perhaps, a  
3 couple of flights as of 5/11/75. His first full-time  
4 flight was 6/8/75.

5 Q He started flying for the company May 11th, early May?

6 A Yes.

7 Q Paul Darby, copilot?

8 A 5/4/75.

9 Q So by the middle of May you had hired four full-time  
10 copilots and one part-time copilot?

11 A That appears correct, sir.

12 Q William Potter then was a captain employed by the company?

13 A Yes, he was.

14 Q Do you recall how long he performed copilot duties after  
15 he was hired as a captain?

16 A Couple of months, probably, would be my estimate. That  
17 is purely an estimate. I would estimate a couple months.

18 Q Was he hired around the beginning of February 1975?

19 A I could check for you, if you like.

20 Q Okay. I am going to ask you to check Mr. Potterman  
21 and Mr. Melish.

22 A Potterman and Melish, okay.

23 Q Mr. Grenol, too.

24 A Grenol. Will the payroll dates be sufficient for your  
25 purpose?

1 Q Excuse me?

2 A Will the payroll record date be sufficient for your  
3 purposes?

4 Q Yes.

5 A Okay, sir. You want Grenol?

6 Q Yes. Maybe to assist you in finding it, this shows  
7 the first paycheck to Mr. Grenol was December '74.

8 A I have '75 here. I show the first pay period in  
9 December was -- he received a paycheck -- in January,  
10 I'm sorry.

11 Q Mr. Grenol then was hired sometime very late December?

12 A Very late December, I would think.

13 Q How long did he perform as a copilot?

14 A Not very long, as I recall.

15 Q Your best recollection.

16 A I can check it for you. His first captain check on the  
17 line was dated December 26, 1974.

18 Q Now, Mr. Potterman. Our check on your records show  
19 that he was hired about the second week of February 1975.

20 A February 9th was the payroll date on him.

21 Q How long did he perform as a copilot?

22 A I would have to check his other file now. It shows  
23 the check on April 11th, 1975.

24 Q And Mr. Melish, our compilation shows he was hired  
25 about the third week in February.



- 1 A Yes, these records are not in alphabetical order and  
2 it is sort of hard to find things. Okay, 2/23/75.
- 3 Q Okay. And about how long did he perform as a copilot?
- 4 A If I can find the date on his flight check, I will tell  
5 you. I don't have a record here that indicates, but I  
6 have one over at the table, if I could.
- 7 Q Please.
- 8 A Okay.
- 9 (Witness leaves stand and returns.)
- 10 A June 5th, 1975.
- 11 Q And prior to the time Mr. Potterman was checked out to  
12 be captain, you hired two new copilots; that would be  
13 Mr. Maretti and Mr. McKean?
- 14 A Whoever are identified there on the check list.
- 15 Q And by the time Mr. Melish was checked out as a pilot,  
16 you had a total of five copilots hired?
- 17 A Five copilots hired.
- 18 Five copilots hired? Does that include Melish and --
- 19 Q That includes Garren, that includes Maretti, McKean,  
20 Maido and Darby.
- 21 A I have identified and checked the dates you have.
- 22 Q Do the captains fly as copilots after they are checked  
23 out as captains?
- 24 A There have been times in the company's history when we  
25 have flown the captains, yes, sir.

1 Q Did that happen with regard to Potterman and Melish?

2 A During their transition period they did fulfill their  
3 requirements as copilots.

4 Q So they also performed as copilots after they were  
5 checked as captains?

6 A Not after they were checked as captains, no, I'm sorry.

7 Q Once they are checked as captains, they perform as  
8 captains?

9 A They performed as captains, yes, sir.

10 MR. CHALENSKI: Thank you, Mr. Bell.

11 MR. SHANAHAN: I have nothing further.

12 MR. RICHARDS: I have no questions.

13 THE COURT: You are excused.

14 (Witness excused.)

15 MR. RICHARDS: We call William Pusztai  
16 to the stand, please.

17 WILLIAM PUSZTAI,  
18 having been called as a witness on behalf of Defendant Winston,  
19 was first duly sworn according to law and testified as  
20 follows:

21 DIRECT EXAMINATION

22 BY MR. RICHARDS:

23 Q Do you pronounce your name Pusztai?

24 A Pusztai.

25 Q And you reside where?



- 1 A Invoy, New York. That is a suburb of Binghamton.
- 2 Q By whom are you presently employed?
- 3 A Commuter Airlines.
- 4 Q And in what capacity?
- 5 A As a captain.
- 6 Q And how long have you been employed by Commuter?
- 7 A It will be two years in August.
- 8 Q So you were hired August of '74?
- 9 A Right.
- 10 Q Now, how long have you been a captain for Commuter
- 11 Airlines?
- 12 A I was copilot for three weeks and I was checked out as
- 13 a captain.
- 14 Q All right. Now, Bill, I would like to take you back to
- 15 the fall of 1974. Did you have occasion to attend a
- 16 Teamsters union organizational meeting in a Holiday Inn
- 17 in Vestal, New York?
- 18 A Yes, I did. That was the year I went -- first meeting.
- 19 Q That was the first meeting?
- 20 A Right.
- 21 Q And about what time did you arrive at that motel?
- 22 A I flew the last flight so we got there approximately
- 23 between 8:30 and 9 o'clock.
- 24 Q All right. Do you know how long the meeting lasted?
- 25 A I was there approximately an hour, hour and 30 minutes.

1 Q Was there any Teamsters representative introduced to  
2 you personally, or to the group?

3 A I can't recall exactly how it went. I just can't say  
4 whether we were individually introduced or it was just  
5 in a group, I can't recall.

6 Q Was there a Teamster representative at that meeting?

7 A Yes, there was.

8 Q And do you recall what his name was?

9 A Mr. Calder.

10 Q Alexander Calder?

11 A Right.

12 Q And did he address the group?

13 A Yes, he did.

14 Q Did you happen to notice if Robert slough was in  
15 attendance at that meeting?

16 A Yes, he was.

17 Q And was Ira Josephson in attendance?

18 A Yes, he was.

19 Q And Michael Baan?

20 A Yes, he was.

21 Q Now, do you recall or do you remember if, in the course  
22 of that meeting, Mr. Calder specifically mentioned the  
23 names of Robert Slough, Ira Josephson and Michael Baan?

24 A I cannot recall that.

25 Q You can't recall that?



- 1 A Not specifically anybo .
- 2 Q Now, was Mr. Calder standing before the group?
- 3 A Yes, the group was -- we were in a motel room and the
- 4 group was sitting like in one section and Mr. Calder
- 5 was standing in a corner and facing the group.
- 6 Q Was there a table in front of him?
- 7 A No, I don't think there was, no.
- 8 Q All right. Was there anyone standing with him?
- 9 A No. I believe everybody was sitting.
- 10 Q Were these three people, Slough, Josephson and Baan
- 11 sitting with the other group?
- 12 A Yes, they were.
- 13 Q When you came in, did you notice if Slough was standing
- 14 with Calder?
- 15 A No, I cannot recall that.
- 16 Q Was Josephson standing with Calder?
- 17 A I cannot recall.
- 18 Q How about Baan?
- 19 A I cannot recall that.
- 20 Q Was Jon Harrington present at that meeting?
- 21 A Yes, he was.
- 22 Q Now, did you have occasion later that week to attend
- 23 a captains' meeting at which Mr. Winston, and briefly,
- 24 Mr. Bell, addressed the captains?
- 25 A Yes, I was.

1 Q And do you recall that meeting?

2 A Yes, I can recall it.

3 Q Now, Mr. Pusztai, will you just briefly look at that  
4 transcript, and my question to you is, whether you had  
5 an opportunity to read that transcript last night?

6 A Yes, I have.

7 Q Now, can you tell me whether or not the statements made  
8 by Mr. Winston at the captains' meeting were sub-  
9 stantially the same as appears in that transcript,  
10 Government Exhibit 33A?

11 A In general, it was, yes.

12 Q And is there any other recollection of statements he  
13 made which do not appear in that transcript?

14 A I cannot recall anything specific.

15 Q Okay. Now, do you also recall attending a ground school  
16 session conducted by Ted Bell some two Saturdays later,  
17 two weeks later?

18 A Yes, I do.

19 Q And do you recall the purpose of this ground school?

20 A Yes, it was for Metro pilots who were going to be  
21 checked out as Metro copilots and captains.

22 Q And was Mr. Bell present there with that factory rep?

23 A Yes, he was.

24 Q Do you recall whether or not Mr. Winston addressed the  
25 group?



1 A After the meeting, yes, he did, for a short period.

2 Q Now, do you recall what Mr. Winston said at that meeting?

3 A It was basically the same, what we had at the other  
4 meeting.

5 Q When you say the other meeting, you mean the captains'  
6 meeting?

7 A Right, the captains' meeting. In summary, he briefly  
8 addressed the group. Mr. Winston talked about this  
9 organization and activities, and he was afraid what these  
10 contracts could do to the company and he was afraid  
11 that it might ruin the company, it might injure the  
12 growth of the company, and he brought some examples.

13 Q Did he mention the Golden West firm on the west coast?

14 A Yes, I believe he mentioned it, and after they chose  
15 the Teamsters, the money they lost, and he was very  
16 concerned about this and he just wanted to let us know  
17 how he felt about this whole thing.

18 Q Was it his concern of entering into a contract similar  
19 to the Golden West contract?

20 A Yes, he was concerned, yes.

21 Q Now, do you recall having him mention anything about  
22 an 18-million-dollar loss?

23 A I cannot recall the exact figure, but they were in the  
24 millions.

25 Q All right. And do you know whether or not that

1 reference was to the Golden West situation in that talk?

2 A Yes, it was.

3 Q All right. Do you also recall him discussing Hank  
4 Excel's retirement?

5 A Yes, he was.

6 Q Was there any mention about company benefits being  
7 offered?

8 A Yes, there was.

9 Q And was Hank Excel's name used as an example of one of  
10 these benefits?

11 A Yes, it was.

12 Q Do you recall the name Bert Melstrom being mentioned?

13 A Yes, it was.

14 Q Now, did Mr. Winston at any time throughout that meeting  
15 while he addressed you, speak to you about not voting  
16 against the union?

17 MR. CHALENSKI: Objection, leading,  
18 your Honor.

19 THE COURT: Sustained.

20 BY MR. RICHARDS:

21 Q Did you have occasion at the National Airport in  
22 Washington to overhear a conversation between Jon  
23 Harrington and Dennis Larimore?

24 A Yes, I did.

25 Q And could you tell us where that conversation took place?



1 A We came in on a flight from Binghamton and we went  
2 behind the ticket counter checking the passengers --

3 Q Now, is this ticket counter inside one of the buildings  
4 at the airport?

5 A Yes, it is.

6 Q Is it in a room, could you give me a rough estimate of  
7 the size?

8 A Yes, it is a large waiting type room where different  
9 commuter airline passengers check in.

10 Q And are there chairs or benches for passengers to sit on?

11 A Yes.

12 Q And how close are these chairs and benches from the  
13 ticket stand that you were standing at?

14 A Oh, I would estimate maybe 15 feet, 20 feet at the most.

15 Q All right. Was Mr. Larimore excited or angry in this  
16 discussion?

17 A Yes, he got very excited. I cannot exactly recall about  
18 what, but he raised his voice and he sounded threatening,  
19 and so we had to calm him down.

20 Q Well, who was he threatening, do you know?

21 MR. CHALENSKI: I object to the  
22 characterization.

23 BY MR. RICHARDS:

24 Q Well, do you recall what he said in regards to the  
25 threat?

1 A I cannot exactly recall what he said, but it was against  
2 Mr. Winston.

3 Q All right. Did he refer to Mr. Winston by any name?

4 A I cannot recall.

5 Q Now, do you recall whether or not there were any  
6 passengers present, or within hearing distance of this  
7 conversation?

8 A I cannot exactly say that there were, but that room, we  
9 have four or five different commuter airlines operating  
10 out of that room and there were always a lot of  
11 passengers crossing by.

12 Q In other words, people were walking around the room?

13 A Right, walking around and checking in with different  
14 commuter airlines.

15 Q Did Mr. Harrington say anything to Larimore after  
16 this remark was made?

17 A Well, I know what I said. I was trying to calm him down  
18 because I think it was senseless what he was doing.

19 MR. CHALENSKI: Objection, your Honor.

20 THE COURT: Strike it out. Sustained.

21 BY MR. RICHARDS:

22 Q In the course of this discussion, did Mr. Larimore  
23 make any reference to blowing something up?

24 A He said something similar. I can't exactly recall, but  
25 he was the type of a person, he can just blow up and



1 say things, you know, thinking it over and --

2 MR. CHALENSKI: I object to this,

3 Mr. Larimore being a kind of a person. If he said  
4 something --

5 THE COURT: Please, I heard your  
6 objection. Strike it out.

7 MR. RICHARDS: No further questions.

8 CROSS-EXAMINATION

9 BY MR. CHALENSKI:

10 Q Mr. Pusztai, during the meeting, the union meeting of  
11 October 2nd, 1974, you said you don't recall the names  
12 of Josephson or Slough or Baan being mentioned?

13 A Not particularly. Nobody was particularly mentioned.

14 Q You were fairly new at the company at that time, were  
15 you not?

16 A I was with the company approximately two months. I  
17 started in August, mid-August, so roughly two months.

18 Q Do you recall whether Calder mentioned any names?

19 A Any individual person you mean?

20 Q Yes.

21 A Not for any specific reason, no, I do not recall.

22 Q You just don't recall?

23 A No.

24 Q He may have mentioned some names, he may not have?

25 A Possibly. I cannot recall specifically for anybody

1 specifically or anything.

2 Q You were there about an hour and a half. Was the  
3 meeting going on after you left?

4 A I believe it was. I left because I had to get up early  
5 for another flight so I --

6 Q Now, you testified that you were present at a meeting  
7 on -- this would be about October 19th, two weeks after  
8 the meeting of the 5th, at which the defendant, Winston,  
9 spoke at your ground school?

10 A Yes, I was.

11 Q And had the Defendant Winston addressed the ground  
12 school?

13 A That's correct.

14 Q When did the address of Defendant Winston begin, was it  
15 in the beginning of the ground school or at the end?

16 A At the end.

17 Q It was at the end?

18 A Right.

19 Q Mr. Bell testified on direct, as I recall, that it was  
20 just getting underway when it was interrupted by Mr.  
21 Winston. Was Mr. Bell incorrect?

22 A I really thought it was after. I might be wrong. I  
23 do not exactly recall now. I only know that we had  
24 about 15 or 20 minutes, a short meeting.

25 Q A short meeting with the Defendant Winston speaking, you



1 mean?

2 A Right, right.

3 Q Was the rest of the meeting, the ground school, short,  
4 too?

5 A No, it was a pretty long session.

6 Q Now, do you recall the Defendant Winston saying anything  
7 about retiring and selling the business at that meeting?

8 A Mr. Winston mentioned that in case of a contract  
9 similar to the Golden West or something --

10 Q Mr. Pusztai, do you recall --

11 MR. SHANAHAN: Wait a minute, let him  
12 answer.

13 MR. CHALENSKI: He didn't answer my  
14 question. It is not responsive. I asked if he heard  
15 Mr. Winston say anything with reference to closing  
16 the business.

17 MR. SHANAHAN: If the Court please,  
18 I submit the answer the witness was in the course of  
19 giving was responsive to that question.

20 THE COURT: I think it was.

21 BY MR. CHALENSKI:

22 Q Please continue as you were, Mr. Pusztai.

23 A Okay. Mr. Winston mentioned that possible contracts  
24 like the Golden West, similar to that, might harm the  
25 company. The company might not be able to afford it.

1 Possibly in negotiations, possibly striking, which we  
2 were talking about at the first meeting, would just  
3 disrupt the company, the growing of the company and he  
4 just might be forced to just close the business and --

5 Q And similar?

6 A And similar.

7 Q Do you recall him saying that he would close the door?

8 A Well, he said he might be forced to do it if we go out  
9 on strike and we lose passengers. If we have a contract  
10 wh. h the company cannot afford, the company would lose  
11 its flexibility because of outside involvement in the  
12 company and he just didn't know what would come out of  
13 this whole thing and he said there is a possibility that  
14 in the case he has no choice, and it is possible he  
15 would close the business if he would lose money or  
16 couldn't afford to go on with those contracts.

17 Q So he did say one of his alternatives was to retire and  
18 sell the business?

19 A Yes, it was a possibility, yes.

20 Q Now, did he say whether or not he would take that action  
21 only after a contract was signed?

22 A I can't recall Mr. Winston specifying anything in that.  
23 He was just, in general, talking about what the contract  
24 would cost the company.

25 Q But you are sure it wasn't anything of the nature that



1 if a union got in, these are the actions he might take?

2 A No, it wasn't.

3 Q It was only in reference to a contract?

4 A Right, right.

5 Q What he said was, before I will sign a contract like  
6 this --

7 A No, Mr. Winston did not specify when or how. He in  
8 general talked with a like reference what it could do  
9 to the company and the company just couldn't afford  
10 losses like that, and that's what he said.

11 Q You said one of his options was to close the business  
12 down. What was that with reference to? When would he  
13 close the business down?

14 A He didn't say exactly when, he just said he might be  
15 forced to do it, in case there was a contract which  
16 the company could not afford, or I would say it like  
17 we were discussing at the meeting, the union meeting,  
18 in case there were problems with signing the contract,  
19 we would just go on strike, shut the company down, and  
20 Mr. Winston referred to those things which was a  
21 possibility and the company could just not survive that  
22 kind of losses, and then he referred that he might be  
23 forced to shut down under those circumstances.

24 Q Did he say this in a list of alternatives?

25 A Pardon?

1 Q Did he say this as a part of list of alternatives which  
2 he could take?

3 A I cannot recall categorizing any list of alternatives.

4 Q Now, you don't recall hearing anything specific between  
5 Mr. Larimore and Mr. Harrington?

6 A I cannot exactly recall what he said, but I know it  
7 was --

8 Q How long did the discussion last?

9 A It was a short period.

10 Don't recall him calling the Defendant Winston any name?

11 A I cannot recall that, but I can recall him raising his  
12 voice loud and making threatening remarks, and that  
13 is when I told him, please calm yourself because --

14 Q Mr. Pusztai, please, just answer my questions. How  
15 close were you?

16 A Right by him.

17 Q Right next to him?

18 A Right next to him.

19 Q Within three or four feet?

20 A Right.

21 Q How close were the other persons who were in the  
22 terminal at that time?

23 A Well, there is another commuter just to the right of  
24 us and there is an airline just to the left of us a few  
25 feet.



1 Q Do you recall persons being at those two terminals at  
2 the time this conversation was going on?

3 A Yes, there were people around, yes.

4 Q Well, do you recall persons being at these two terminals?

5 A Right.

6 Q And were you closer than any of those persons would have  
7 been?

8 A Yes, it was.

9 Q And you did not hear any comment about --

10 A I heard the comment. I cannot recall exactly what he  
11 said.

12 Q Do you recall Mr. Larimore calling the Defendant Winston  
13 a name?

14 A He made threatening remarks.

15 Q Wait. Do you recall him calling the Defendant Winston  
16 a name?

17 A Yes, I do.

18 Q What name?

19 A I heard Mr. Winston's name, but I cannot exactly recall  
20 what he said. That was a threatening remark against  
21 Mr. Winston, I know that for sure.

22 Q Okay. What type of threatening remark?

23 A Something he would blow up or something. It just  
24 burst out and it was a --

25 Q Okay. In any event, when you say threatening remark,

1           that is what you mean by a name?

2       A     What do you mean by that?

3       Q     I am asking you whether you heard Mr. Larimore call  
4           the defendant a name, a bad name. Did he characterize  
5           him in a derogatory way?

6       A     He was referring to Mr. Winston and he said that, and  
7           Commuter Airlines.

8       Q     Well, "that," I'm trying to find out what "that" is.  
9           Is that a threatening remark, is that what you mean?

10      A     A threatening remark to blow something up, or I cannot  
11           exactly recall what he said, but it was a threatening  
12           remark against Mr. Winston and Commuter Airlines.

13      Q     Something like --

14      A     We just might blow something up, or something similar  
15           to that. It was not a proper thing to say or the  
16           proper place. We tried to calm him down, and finally  
17           he calmed down.

18      Q     That's all you recall, a threatening remark, blow  
19           something up or something like that?

20      A     It was addressed against Mr. Winston and Commuter Air-  
21           lines.

22      Q     Mr. Pusztai, how long have you been employed by the  
23           defendant? You said August of '74?

24      A     Right.

25      Q     You are still employed with them?



1 A Right.

2 Q Have you had any occasions where you damaged an airplane  
3 during the course of your employment?

4 A Myself?

5 Q Yes.

6 A Yes, there was.

7 Q When was the first?

8 A It was about February of this year.

9 Q This year?

10 A Yes.

11 THE COURT: We will take a luncheon  
12 recess at this time. Same schedule as yesterday  
13 unless there is someone who objects to that.  
14 If there is, just raise your hand.

15 All right.

16 (Luncheon recess was taken.)

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1 (Trial continues after luncheon recess.)

2 CROSS-EXAMINATION (Continuing)

3 BY MR. CHALENSKI:

4 Q Mr. Pusztai, the last question I asked you before we  
5 adjourned for lunch was whether you had any accidents  
6 while in the employ of the company.

7 A Yes, I have.

8 Q And when did that take place?

9 A Approximately February.

10 Q Can you describe what damage was caused to the plane at  
11 that time?

12 A Yes, we were taxiing out in a blinding snowstorm, and  
13 unfortunately, the way the Metro is designed, the mid-  
14 section of the windshields are protected and the  
15 defogging equipment, so that section was completely  
16 blinded by snow and fog from the inside, and the only  
17 way we can safely navigate, we used the copilot on the  
18 right side to look out and watch out that we are not  
19 getting close to any objects, and we were about halfway  
20 out. We were making a turn on taxiing and the snow was  
21 just falling heavier and heavier. We just completely  
22 whiteout, and I was looking out the left side so I  
23 didn't get close to anything on the left side. At that  
24 point, unfortunately, my copilot got a call from the  
25 tower to copy of clearance and he put his head down



1 copying the clearance and there was nobody watching the  
2 right side. I was making a turn and we got too close  
3 to the runway lights and we touched it and damaged the  
4 right prop.

5 Q Did that require repairs to the prop and engine?

6 A The props.

7 Q Just the props?

8 A As far as I know.

9 Q You don't know whether there was any damage to the  
10 engine?

11 A There was no damage to the engine.

12 Q Did you have an incident where you overshot a runway  
13 at Dulles Airport?

14 A No, sir.

15 Q Did you have any incident where you, upon taking off,  
16 had to stop in the grass at the end of a runway?

17 A No, sir.

18 Q What did you do with both of your National Mediation  
19 Board ballots?

20 A We had discussions with Mr. Winston, talked about the  
21 voting and about this whole organization and what my  
22 thoughts were about it, and I told him that --

23 Q What did you do with the ballots, Mr. Pusztai?

24 A I gave it to Mr. Winston.

25 MR. CHALENSKI: Thank you.

## 1 CROSS-EXAMINATION

2 BY MR. SHANAHAN:

3 Q Mr. Pusztai, just one matter: you say you attended the  
4 captains' meeting that took place on October 5th?

5 A Yes, I have.

6 Q And I take it you indicated that you had read the  
7 transcript that was shown to you this morning while  
8 you were on the stand, you read that last night?

9 A Yes, I have.

10 Q And that contained a portion, at least, of what was  
11 stated by Mr. Bell at the copilots' meeting. Did you  
12 read that as well?

13 A Yes, I did.

14 Q And let me ask you: did Mr. Bell also speak at the  
15 captains' meeting?

16 A Yes, he did, briefly.

17 Q And were the statements that he made at the captains'  
18 meeting substantially the same as you read in that  
19 transcript?

20 A Yes.

21 Q Was there anything stated by Mr. Bell on the subject of  
22 check rides at the captains' meeting?

23 A I cannot recall anything specific.

24 Q I beg your pardon?

25 A I cannot recall anything specific like that, anything



1           like check rides.

2       Q     You don't recall anything being said on that subject?

3       A     No.

4                       MR. SHANAHAN: That's all.

5                       REDIRECT EXAMINATION

6       BY MR. RICHARDS:

7       Q     Mr. Pusztai, the time you gave your ballots to Mr.  
8           Winston, was there a conversation between you and him?

9       A     Yes, we talked about feelings, about how I felt about  
10          this whole thing.

11      Q     What did you say to him?

12      A     I told Mr. Winston I did not feel that this was the  
13          proper way to go and I was concerned about union  
14          activities, possibly going on strike, which was  
15          mentioned in the meetings, and I have a family and two  
16          small kids, and I just couldn't afford to go out on  
17          strike, so I was very much concerned what the effect  
18          of this negotiations would be and so I just felt --

19                    MR. CHALENSKI: I object to what  
20          the witness felt.

21      BY MR. RICHARDS:

22      Q     Just tell me what you said at the time, Mr. Pusztai.

23      A     I said to Mr. Winston?

24      Q     Have you told me everything you said to Mr. Winston  
25          during this conversation?

1 A Yes, I told him that I cannot support working for the  
2 Teamsters. He said, "What kind of proof do you have?"  
3 I said, "I'll give you my ballots." That was it.

4 Q What did he say to you?

5 A That was it. There was no further discussion.

6 Q And you told us all of your recollection of that  
7 conversation?

8 A Pardon me?

9 Q You told us everything that was said during that  
10 conversation?

11 A Yes, generally.

12 MR. RICHARDS: All right. No further  
13 questions.

14 MR. CHALENSKI: No recross, your Honor.

15 THE COURT: You are excused.

16 (Witness excused.)

17 FREDERICK L. MAYES,  
18 having been called as a witness in behalf of Defendant  
19 Winston, was first duly sworn according to law and  
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. RICHARDS:

23 Q Mr. Mayes, may we have your full name and address?

24 A Full name?

25 Q Yes.

- 1 A Frederick L. Mayes.
- 2 Q Where do you reside?
- 3 A Box 375, Baimbridge, New York.
- 4 Q And where are you presently employed?
- 5 A Ford Air, Sidney, New York.
- 6 Q In December of 1974, for whom were you employed?
- 7 A Commuter Airlines.
- 8 Q And in what capacity?
- 9 A Shop supervisor.
- 10 Q Shop supervisor?
- 11 A Yes, sir.
- 12 Q Is that maintenance department, Commuter?
- 13 A Yes.
- 14 Q And what did your responsibilities include?
- 15 A Well, mainly assign the workload at the beginning of the
- 16 shift, somewhat supervising the work as it was being
- 17 accomplished.
- 18 Q Do you recall in December of 1974 when you were
- 19 requested to replace a door handle on a Metro?
- 20 A I do.
- 21 Q Do you remember the instructions given to you at the
- 22 time you were asked to do this work?
- 23 A Well, my superior, Art Warner, came out and told me
- 24 that he had received a phone call and a door handle,
- 25 snubber handle was broken, and he instructed me to



1 replace it.

2 Q What did you do in order to replace the handle?

3 A We didn't have a spare handle in stock so I removed  
4 one from an aircraft in the hangar that was down for  
5 maintenance and proceeded over to install that handle.

6 Q Was this another Metro in the hangar for maintenance?

7 A Yes, sir.

8 Q Now, did you thereupon walk over to the aircraft on  
9 which you were going to work on this handle?

10 A I walked, or one of the linemen possibly gave me a ride.

11 Q Possibly a lineman was with you at the time?

12 A I don't recall whether there was another mechanic or  
13 a lineman.

14 Q Now, when you arrived at the aircraft, was there a pilot  
15 there by the door?

16 A I can't be sure.

17 Q Was there any -- well, then you can't recall any  
18 conversation between you and the pilot at that time as  
19 to how the accident happened?

20 A No, I don't -- I can't recall that.

21 Q Did you then proceed to replace the handle on the  
22 snubber system?

23 A Yes, sir.

24 Q And did there come a time when you learned that the  
25 door itself was not functioning properly?

1 A Yes, after I replaced the handle, I raised the door in  
2 order to attach the snubber assembly to it, and in which  
3 case it was just about to enter the frame of the  
4 aircraft before you can attach the snubber to the handle  
5 and I saw then that the door would not enter the frame.

6 Q The door would not what?

7 A Enter the frame of the aircraft.

8 Q Was the door twisted?

9 A Yes.

10 Q Once you learned this, what did you do in regard to that  
11 aircraft?

12 A I grounded the aircraft at that time, made arrangements  
13 I believe to have it towed back to the maintenance  
14 hangar.

15 Q Thereafter, did you have anything to do with that  
16 snubber?

17 A No, sir.

18 Q Have you told me everything you can recall regarding that  
19 incident?

20 A I think I have, sir.

21 MR. RICHARDS: No further questions.

22 MR. SHANAHAN: I have nothing.

23 CROSS-EXAMINATION

24 BY MR. CHALENSKI:

25 Q Mr. Mayes, at the time that you arrived at the airplane

1 with this replacement handle, you had it in your hand,  
2 the replacement handle of some sort?

3 A Yes, sir.

4 Q Did you speak to anybody?

5 A I don't recall any conversation. There may have been,  
6 but I just do not remember it.

7 Q You could have spoken to somebody?

8 A I could have.

9 Q Do you recall asking anybody how the handle became  
10 damaged?

11 A I don't recall asking that question.

12 Q You walked up to the airplane, saw this handle there or  
13 somebody gave it to you, is that correct?

14 A I don't know if anybody handed me the handle, just  
15 what position that handle was in when I got to the  
16 aircraft, to be truthful with you.

17 Q Do you recall seeing this handle at that time?

18 MR. RICHARDS: Would you show it to him?

19 THE COURT: How did you come by the  
20 handle? Did you ever get the handle in your possession?

21 THE WITNESS: Well, it has been some  
22 time ago. I don't -- I don't remember whether I  
23 carried this handle back to the shop or whether it  
24 was left in the aircraft.  
25



1 BY MR. CHALENSKI:

2 Q Do you recall seeing it when you arrived at the aircraft?

3 A I can't answer whether I recall that or not.

4 THE COURT: Well, what is your  
5 earliest memory about that handle?

6 THE WITNESS: The only thing I can  
7 remember about this handle is, I was instructed to  
8 go over and replace it, that it was broken.

9 THE COURT: Do you know who gave you  
10 those instructions?

11 THE WITNESS: Yes, my supervisor.

12 THE COURT: Who is that?

13 THE WITNESS: Mr. Art Warner.

14 BY MR. CHALENSKI:

15 Q And you may or may not have spoken to a pilot at the  
16 plane when you arrived, you don't recall?

17 A I don't recall any conversation at the aircraft. There  
18 was a lot of activity on the ramp at that time and I  
19 don't recall any conversation with the flight crew.

20 Q Was the handle on the aircraft when you arrived, this  
21 handle, was it installed, was it in place?

22 A I believe it probably was in place. The attachments,  
23 I believe, were on the wall, put it that way.

24 Q The attachments were, but --

25 A I had to take those off.

1 Q The handle had sheared by that time though, when you  
2 arrived?

3 A I can't remember whether it was sheared or what  
4 position that handle was in.

5 THE COURT: Do you remember being  
6 called to the plane at all?

7 THE WITNESS: Do I remember what, sir?

8 THE COURT: Do you remember anything  
9 about it in the plane or was this something you worked  
10 on in the shop?

11 THE WITNESS: The only thing I remember  
12 is going over to the ramp to replace this broken handle.

13 BY MR. CHALENSKI:

14 Q Mr. Mayes, is this what I am handing you, one of the  
15 attachments for the handle?

16 A Yes, sir.

17 Q That is an attachment that bolts to the --

18 A The bulkhead.

19 Q The bulkhead of the plane?

20 A Yes, sir.

21 Q Has that ever had any maintenance performed on it?

22 A It appears that it has been repaired.

23 Q Repaired. By repaired, you mean welded?

24 A Welded.

25 Q It appears that it broke off at the bottom at one time

1 and was welded?

2 A Yes, sir.

3 Q Do you have any particular knowledge as to whether the  
4 handle on that plane had been repaired at a prior time?

5 A Not that particular aircraft.

6 MR. CHALENSKI: Thank you, Mr. Mayes.

7 MR. RICHARDS: No questions.

8 THE COURT: You are excused.

9 (Witness Excused.)

10 MR. RICHARDS: The defense calls

11 Jon Harrington.

12 JON HARRINGTON,

13 having been called as a witness in behalf of the Defendant  
14 Winston, was duly sworn according to law and testified as  
15 follows:

16 DIRECT EXAMINATION

17 BY MR. RICHARDS:

18 Q Mr. Harrington, can we have your full name and address,  
19 please?

20 A Jon Harrington, R.D. 2, Endicott, New York.

21 Q And for whom are you employed?

22 A Commuter Airlines.

23 Q And in what capacity?

24 A As a pilot.

25 Q How long have you been employed by Commuter?



1 A 12 years.

2 Q And have you been a captain for that 12 years?

3 A No, I have been a captain for approximately nine years.

4 Q Do you have any positions with the company other than a  
5 pilot?

6 A Assistant chief pilot.

7 Q And as assistant chief pilot, what do your duties  
8 include?

9 A Mostly administrative, some scheduling duties and  
10 pilot check flights for training.

11 Q And your administrative duties, do they include -- what  
12 do you mean by that?

13 A Weekend schedule and keeping the pilots' records.

14 Q Okay. Mr. Harrington, do you recall the organizational  
15 activity of the Teamsters back in the fall of 1974?

16 A Yes, I do.

17 Q Now, do you recall attending a captains' meeting at  
18 Michael Kleitz's home in late August of '74?

19 A Yes, I do.

20 Q And what was the purpose of that meeting?

21 A Mainly to discuss the idea of better communications  
22 with the management.

23 Q When you say better communications, are you talking  
24 about terms and conditions of employment?

25 A Not necessarily. More in the line of discussing

1 problems that were confronting the whole organization.

2 Q Now, those who attended this meeting were pilots and  
3 senior pilots?

4 A Yes.

5 Q Now, do you recall if Ted Bell was present at that  
6 meeting?

7 A Yes, he was.

8 Q Who acted as the secretary to that meeting?

9 A Lamos, Mr. Lamos.

10 Q At the end of that meeting, was Mr. Lamos given any  
11 instructions as to the minutes of that meeting?

12 A I don't recall any specific instructions. He was going  
13 to consolidate them and present them back to us.

14 Q Now, did there come a time when there was a second  
15 meeting at Kleitz's home?

16 A Yes.

17 Q And did you attend that meeting?

18 A Yes, I did.

19 Q Incidentally, was Captain Reeve present at the first  
20 meeting?

21 A I don't believe so.

22 Q Was Ted Bell present at the second meeting?

23 A To the best of my recollection, yes.

24 Q All right. Now, there came a time on or about  
25 September 24th, '74, an unsigned letter was distributed

1 among the pilots. Do you recall seeing that letter?

2 A Yes, I did.

3 Q Do you know who the author of that letter was?

4 A This was the information compiled by Mr. Lamos, I  
5 believe.

6 Q I'm sorry?

7 A This was the information that Mr. Lamos had brought from  
8 the meeting, had written down. Is that what you are  
9 referring to?

10 Q No, excuse me. Do you recall having any conversation  
11 with Robert Slough regarding the authorship of a letter  
12 which had been distributed among the pilots?

13 A Oh, I didn't understand what you meant by letter. I  
14 don't recall any conversation about that at all.

15 Q There has been testimony in this trial by Mr. Slough  
16 that he had indicated to you that he, DeLorenzi,  
17 Josephson and Gary Lenter had collaborated and written  
18 that letter which I show you in evidence, Government  
19 Exhibit 23.

20 MR. CHALENSKI: Your Honor, that  
21 letter is not in evidence.

22 MR. RICHARDS: I'm sorry, marked  
23 for identification.

24 Q Do you recall any conversation with Slough regarding  
25 that letter?



1 A None whatsoever.

2 Q Did there come a time --

3 THE COURT: Did you ever see the letter?

4 THE WITNESS: Yes, I have.

5 THE COURT: When did you see it?

6 THE WITNESS: This was distributed

7 to all of us through our mailboxes.

8 THE COURT: When? When did you see it  
9 is what I asked you, not what happened to it.

10 THE WITNESS: I don't remember the  
11 exact date. Sometime in September, late September  
12 we received these in our mailboxes.

13 THE COURT: Late September '75?

14 THE WITNESS: '74.

15 THE COURT: '74?

16 THE WITNESS: September '74.

17 THE COURT: May I see the letter?

18 MR. RICHARDS: Certainly, your Honor.

19 (Court looks at letter.)

20 THE COURT: Was this in your mailbox,  
21 a copy of this?

22 THE WITNESS: In all our mailboxes.

23 THE COURT: Was it in yours?

24 THE WITNESS: Yes, it was.

25 THE COURT: When you say all, who do

1           you include by all?

2                   THE WITNESS: All crew members, as far  
3           as I know, that had a mailbox.

4                   THE COURT: Were you the assistant  
5           chief pilot at this time?

6                   THE WITNESS: Yes, I was.

7                   THE COURT: Was it also in the chief  
8           pilot's box?

9                   THE WITNESS: I couldn't say for sure.

10                  THE COURT: You don't know?

11                  THE WITNESS: No.

12                  THE COURT: You never discussed it  
13           with him?

14                  THE WITNESS: I can't recall discussing  
15           it with him at that time, no, sir.

16                  THE COURT: Do you deny that you did?

17                  THE WITNESS: I can't recall ever  
18           discussing it with him during that period.

19                  THE COURT: Did you discuss it with  
20           Mr. Winston?

21                  THE DEFENDANT: Not that I recall,  
22           no, sir.

23                  THE COURT: Who did you discuss it  
24           with, if anybody?

25                  THE WITNESS: I can't recall

1 specifically discussing it with anybody. I am sure  
2 there was an enormous amount of discussion about it  
3 and people had talked to me about it, but as far  
4 as the authorship, I --

5 THE COURT: I am not asking you about  
6 the authorship. I am talking about the contents of  
7 this letter. Did you discuss it with anybody?

8 THE WITNESS: Well, I'm sure I  
9 discussed it with people that I worked with.

10 THE COURT: But not with Mr. Bell?

11 THE WITNESS: I can't remember any  
12 specific discussion about it.

13 THE COURT: Wasn't Bell your immediate  
14 superior?

15 THE WITNESS: Yes, he was.

16 BY MR. RICHARDS:

17 Q Mr. Harrington, do you recall attending a union meeting  
18 the first week of October '74?

19 A Yes, I did.

20 Q Do you know the date of that meeting?

21 A I believe it was October 2nd.

22 Q Now, did you receive some type of invitation to go to  
23 the meeting?

24 A I was called by one of the copilots, possibly two, I  
25 can't recall exactly, but they asked me to attend,



1 thought I should be there.

2 Q And did you attend that meeting?

3 A Yes, I did.

4 Q Before attending that meeting, at any time before  
5 attending it, had you discussed the meeting date with  
6 Ted Bell?

7 A No, I did not.

8 Q And you are absolutely sure of that?

9 A As far as I can recall, I did not discuss it with Ted  
10 Bell at all.

11 Q All right. Did you go to the meeting?

12 A Yes, I did.

13 Q Was there a representative from the Teamsters present  
14 at that meeting?

15 A Yes, there was.

16 Q Do you recall seeing pilots Slough, Josephson and  
17 Baan at that meeting?

18 A Yes.

19 Q Do you recall what time you arrived at the meeting?

20 A I can't recall the specific time. I was a little late.

21 Q Were you yourself introduced to this representative from  
22 the Teamsters at that meeting?

23 A He introduced himself to me.

24 Q As he addressed the group?

25 A Well, he introduced himself to me as I came in the room.

1 Q Were you there at the meeting throughout the entire  
2 session?

3 A Yes, as far as I know.

4 Q You didn't leave early?

5 A I left at the time it seemed to be breaking up. I  
6 didn't leave with anyone.

7 Q Had Mr. Calder completed his address to the group at the  
8 time it was breaking up?

9 A Seemed to be completed, yes.

10 Q Did you hear Mr. Calder mention the names of Robert  
11 Slough, Ira Josephson and Michael Baan?

12 A No, I didn't, specifically, no.

13 Q Incidentally, was Mr. Calder standing in front of the  
14 group or sitting down?

15 A Standing in front of the group.

16 Q Was he with anyone as he was standing?

17 A No.

18 Q Were pilots Slough, Josephson and Baan sitting with the  
19 group?

20 A With the pilots.

21 Q Following that meeting, right after that meeting was  
22 completed, did you contact Mr. Bell or Mr. Winston  
23 regarding the meeting?

24 A No, I did not.

25 Q Now, do you recall what your schedule was for the

1 following morning, October 3rd?

2 A The next day I was on a charter to Saranac Lake. I took  
3 off in the morning, went to White Plains, back to  
4 Sullivan County and overnighted in Saranac Lake.

5 Q Was it necessary to have a copilot?

6 A Yes.

7 Q Who was your copilot?

8 A Tom Louis.

9 Q Do you recall who your passenger was at the time?

10 A Governor Wilson, present Governor Wilson.

11 Q Now, there has been testimony by Josephson that on the  
12 morning of October 3rd, he flew as copilot with you and  
13 had a discussion regarding the union meeting the night  
14 before. Do you have any recollection of that discussion  
15 with Josephson?

16 A I was on a different flight. I wasn't with Josephson  
17 on that morning.

18 Q Now, I show you Defendant's Exhibit A which is now in  
19 evidence and ask you what that document is.

20 A It is the master flight schedule.

21 Q Does that document indicate as to what your schedule was  
22 the morning of October 3rd?

23 A Yes, it does.

24 Q And does it show who your copilot was?

25 A It indicates Louis.



- 1 Q Tom Louis?
- 2 A Yes.
- 3 Q No reference to Ira Josephson?
- 4 A It indicates that he is on flight 100.
- 5 Q Now, later that week on a Saturday, do you recall
- 6 attending a captains' meeting at which Mr. Winston and
- 7 Bell addressed the group?
- 8 A Yes, I did.
- 9 Q Now, prior to this trial, have you had an opportunity to
- 10 listen to a tape of what purported to have happened at
- 11 the copilots' meeting?
- 12 A Yes, I heard the tape.
- 13 Q Now, do you recall what Mr. Winston said at that
- 14 captains' meeting?
- 15 A Generally, yes.
- 16 Q Do you recall what Mr. Bell said?
- 17 A Yes, generally.
- 18 Q Now, was what was said by Mr. Winston at the captains'
- 19 meeting substantially the same as what you heard on that
- 20 tape?
- 21 A As far as I can recall, yes.
- 22 Q And also what Mr. Bell said, was that substantially the
- 23 same as what you heard on that tape?
- 24 A Yes.
- 25 Q Is there anything else which was said by Mr. Winston

1 which does not appear on that tape?

2 A No, sir, not that I recall.

3 Q I would ask the same question on Mr. Bell. Is there  
4 anything you can recall he said that is not on that tape?

5 A No, sir.

6 Q Would you estimate how long that meeting lasted?

7 A Less than an hour.

8 Q Do you recall if it started before or after noon?

9 A I don't recall.

10 Q Now, are you familiar with the training provided to the  
11 pilots for the ground crew on Metro aircraft?

12 A Yes, I am.

13 Q Are you responsible for any part of that training?

14 A At this time I am, yes, sir.

15 Q And have you yourself received training from any person  
16 or firm?

17 A Yes.

18 Q And who has trained you?

19 A We had three separate sessions. Two were people from  
20 Sweer Engine pertaining to the aircraft, and at least  
21 one that I recall with the engine manufacturer, Air  
22 Research.

23 Q Now, do you know what that training involves or what  
24 course of instruction is given to the pilots as to  
25 opening the Metro door?

1 A Yes.

2 Q Would you briefly explain to the Court and jury what that  
3 training is.

4 MR. CHALENSKI: I object, unless they  
5 show it is relevant to Mr. Sholl.

6 THE COURT: I don't see any relevance.

7 BY MR. RICHARDS:

8 Q All right, Mr. Harrington, we have had some testimony  
9 here regarding the opening of the Metro door by Mr.  
10 Sholl whereby he used a chain and after the door opened  
11 a certain distance he released the chain in order to  
12 avoid being propelled out of the aircraft. Now, have  
13 you had experience opening a door of these Metros?

14 A Yes, I have.

15 Q And in the course of opening the doors of the Metros,  
16 do you use the chain?

17 A Yes, we do.

18 Q And would you tell us for what purpose you use that  
19 chain?

20 A Well, the door is relatively large in a sense, and you  
21 must, when opening the door, you must monitor the  
22 door's opening by holding onto the chain until you are  
23 sure that the hydraulic snubber will engage and let  
24 the door down.

25 Q Now, in the event the hydraulic snubber is not engaged,



1           what steps are you instructed to take?

2       A     Well, to stop the door's progress at that point and  
3           either lower the door manually or close it back up.

4       Q     And how would you lower the door manually?

5       A     By the chain.

6       Q     All right. And now, have you yourself had any experience  
7           with the snubber system on that door?

8       A     Yes, I have.

9       Q     And would you relate briefly as to what happened to you  
10          in regards to that incident?

11      A     The failure of the snubber?

12      Q     Yes.

13      A     Well, on one occasion the snubber became detached while  
14          the door was in the process of opening and the door  
15          free fell to the limit of the chain.

16      Q     Now, following this incident, did you examine the door  
17          itself?

18      A     Yes, we did.

19      Q     Incidentally, while the door was free falling, had you  
20          maintained your hand on the chain?

21      A     No, I had opened the door and the hydraulic snubber  
22          activated, but almost instantly, after I let go of the  
23          chain, the snubber attachment failed.

24      Q     Did you examine the handle after this incident, the  
25          snubber handle?

- 1 A There wasn't any reason to examine the handle.
- 2 Q Was it secured in any way?
- 3 A No.
- 4 Q By reason of the failure of that snubber system?
- 5 A Not in that case, no.
- 6 Q Do you know whether or not the right-hand guard chain
- 7 can in any way be wrapped around the top of the snubber
- 8 handle?
- 9 A It can, yes.
- 10 Q And under what circumstances can you wrap that chain
- 11 around it?
- 12 A Well, you would have to raise the chain up a distance
- 13 on the handle to get it over the top of it.
- 14 Q All right, thank you. Did you have occasion to attend
- 15 any union meetings after the meeting of October 2nd?
- 16 A Yes, I did.
- 17 Q How many meetings would you estimate you attended?
- 18 A Two.
- 19 Q Following your attendance of these meetings, would you
- 20 report what happened to either Mr. Bell or Winston?
- 21 A What happened? Yes, in some instances, yes.
- 22 Q And in the course of these reports, would you identify
- 23 persons who attended or spoke out at a meeting?
- 24 A No, I did not.
- 25 Q In general, what was the nature of these reports which



1           were given to Winston?

2       A     General things that I felt were of a nature serious  
3           enough that I felt I should discuss it with Bell or --

4       Q     Would you give us an example of one or two of these  
5           things?

6       A     One instance I recall specifically was Mr. Calder at  
7           one point answered a question pertaining to the ballots,  
8           and he indicated that if we felt it would enhance our  
9           position that we should turn in our ballots.

10      Q     Turn in the ballots to whom?

11      A     To the company.

12      Q     I'm sorry?

13      A     Turn in the ballots to the company.

14      Q     To the company, meaning Mr. Winston?

15      A     Yes.

16      Q     Now, in your capacity as an assistant chief pilot, do  
17           you have any familiarity with the performance of Pilot  
18           Josephson while he was with the company?

19      A     Yes.

20      Q     And do you have any recollections as to any complaints  
21           you had regarding his performance?

22      A     I specifically had difficulty with Mr. Josephson in the  
23           area of weekend duty, which was my responsibility.

24      Q     Briefly, what would this involve regarding Mr.  
25           Josephson?



1 A Failure to be available for duty and, for instance, a  
2 call-up charter.

3 Q Mr. Josephson would be assigned to be on call for a  
4 weekend?

5 A Yes.

6 Q And you would learn that he was not available, is that  
7 correct?

8 A I would be unable to locate him.

9 Q Were there any occasions when you tried to contact him  
10 when he wasn't available?

11 A Yes.

12 Q And do you recall when, how many times?

13 A There was not any specific instance, it was a continuing  
14 thing. I had several difficulties. I can't recall any  
15 individual.

16 Q Now, did you have anything to do with the maintenance of  
17 the Air Canada pilot manual?

18 A Yes, I did, I am in charge of the revisions for it,  
19 navigation:

20 Q And did Mr. Josephson have any duties with regard to  
21 the manual?

22 A Yes, his job was to update the Canadian charts and  
23 manuals.

24 Q Did you ever have occasion to speak with him regarding  
25 this manual?

1 A Yes, I did.

2 Q And what did you say to him?

3 A Well, he wasn't keeping up the revisions. They were  
4 getting outdated, behind.

5 Q Did you speak to him more than one time regarding this?

6 A Yes, I did.

7 Q Do you know how many times you spoke to him?

8 A As long as he had charge of them.

9 Q Would you report your evaluation regarding this pilot's  
10 performance back to Ted Bell?

11 A Yes, I did.

12 Q Did you report this information to Bell or Winston?

13 A Mainly to Ted.

14 Q Do you have any specific recollection of discussing  
15 Josephson's performance with Bell?

16 A Pertaining to these matters, not a specific date, but --

17 Q Do you recall talking with Bell about Josephson?

18 A Oh, yes.

19 Q Now, did you have any complaint regarding the performance  
20 of a Robert Slough who was at the airline at that time?

21 A He had some problems with weekend duty.

22 Q And again, it would be the nonavailability issue we  
23 heard about?

24 A Nonavailability and --

25 Q And Mr. Harrington, do you recall having any

1 conversation with Mr. Larimore at the National Airport  
2 in Washington?

3 A It wasn't a conversation, really.

4 Q Well, do you recall who was present with you and Larimore  
5 at that time?

6 A I can't recall who was working the counter as a ticket  
7 agent for us at that time, but there was another crew  
8 there, Captain Pusztai and his copilot. I can't recall  
9 who.

10 Q All right. Did Mr. Larimore make any remarks regarding  
11 Mr. Winston?

12 A Yes, he did.

13 Q And would you tell us what he said?

14 A He said, "I hope that little S.O.B. gets what is coming  
15 to him."

16 Q Are you able to say whether or not Mr. Larimore was  
17 angry at this point?

18 A He was upset, yes.

19 Q And he was excited?

20 A Yes.

21 Q Do you know if there were any passengers within hearing  
22 range of that remark?

23 A The place -- we were getting ready to board at that time  
24 There was people everywhere.

25 Q Okay. Did you ever have occasion to speak to a pilot



1 by the name of Hummel regarding a uniform?

2 A Yes, I did.

3 Q Did your responsibilities include the issuance of  
4 uniforms to pilots, new pilots?

5 A Yes.

6 Q What was the procedure at that time that was followed  
7 getting the uniforms for pilots?

8 A Well, procedure up to a point is rather informal. We  
9 give the fellows a reasonable amount of time to adjust  
10 financially. Some of the fellows are just coming to us  
11 and I try to give them at least two, maybe three months  
12 to get into the operation and concentrate on ground  
13 school and what have you before we get too serious about  
14 the uniform. But after that period of time, and as they  
15 are checking out in the heavier equipment, all the crews  
16 in the heavier equipment, the Metros specifically, are  
17 required to be in uniform.

18 Q All right. Incidentally, are uniforms required for  
19 mail routes?

20 A No, they aren't.

21 Q Now, do you know if Hummel purchased a uniform before he  
22 left the company?

23 A No, he did not.

24 Q Did you have occasion to speak with Hummel regarding the  
25 purchase of a uniform?

1 A Yes, I did.

2 Q And on how many occasions?

3 A Several.

4 Q Did he give any explanation as to why he didn' purchase  
5 a uniform?

6 A His statement to me was roughly, the way things are  
7 going, I don't know how long I'll be with the company.

8 Q Do you have any recollection as to when he made that  
9 statement?

10 A The fall of '74, in that area.

11 Q You were eventually issued a ballot for the Teamsters  
12 election on November 24th, is that correct?

13 A That's correct.

14 Q What did you do with that ballot?

15 A I gave it to Mr. Winston.

16 Q Did you have a conversation with him at the time you  
17 gave him that ballot?

18 A Yes, I did.

19 Q What did you say to him?

20 A Well, I knew that several of the other pilots had  
21 brought in their ballots, and I felt that it was to my  
22 benefit to do that, also.

23 Q Well, yes, but what did you say to him and what did he  
24 say to you?

25 A Well, I came into him and gave him my ballots because

1 I knew several guys were turning theirs in.

2 Q Did you come in voluntarily or was that meeting  
3 scheduled with Winston?

4 A I came in voluntarily.

5 THE COURT: What did this handing  
6 the ballot to him signify to you? What did it mean  
7 to you?

8 THE WITNESS: It indicated my  
9 willingness to support the company.

10 THE COURT: And you thought that  
11 would benefit you? You said it was to your benefit.

12 THE WITNESS: Well, there would  
13 be no doubt as to my feeling as to the --

14 THE COURT: You said it would benefit  
15 you. How would it benefit you?

16 THE WITNESS: By assuring Jerry  
17 that I supported him.

18 THE COURT: What if anything did he say  
19 to lead you to that conclusion that it would benefit  
20 you?

21 THE WITNESS: He didn't say anything.  
22 It was just the fact that the other fellows were  
23 turning in their ballots.

24 THE COURT: You understood that, is  
25 that it?



1 THE WITNESS: Well, I didn't want to  
2 stand out as -- if the other guys were turning theirs  
3 in, I wasn't going to be --

4 THE COURT: You weren't going to be what?

5 THE WITNESS: Well, wasn't left with  
6 the indication that I didn't support the company.

7 THE COURT: Well, what were the  
8 consequences if you didn't support the company?

9 THE WITNESS: None, as far as I know.

10 THE COURT: None at all. So you were  
11 just as well off whether you did or whether you  
12 didn't support the company, is that what you're  
13 telling me?

14 THE WITNESS: It is a vote of confidence,  
15 that's all.

16 THE COURT: So it didn't matter either  
17 way, whether you gave him the ballot or whether you  
18 didn't, is that what you are telling us, you would  
19 be as well off if you voted for the union as you  
20 would voting for the company, is that what you  
21 understand?

22 THE WITNESS: Well, I don't understand  
23 how you mean that.

24 THE COURT: I mean it just that way.  
25 You would be as well off one way as the other. Is that

1           what you understood?

2                   THE WITNESS: Well, if everybody else  
3 was turning theirs in, I didn't want to stand out  
4 as one who didn't support the company.

5                   THE COURT: Why?

6                   THE WITNESS: I don't understand.

7                   THE COURT: Well, can you give me  
8 any reason why, why you didn't want to stand out  
9 as one who didn't support the company?

10                  THE WITNESS: I had been with the  
11 company for a long time. I wanted to indicate my  
12 support.

13                  MR. RICHARDS: May I proceed, your  
14 Honor?

15                  THE COURT: Yes.

16 BY MR. RICHARDS:

17 Q       Did you have a conversation with William Lamos around  
18 December of '74?

19 A       Yes.

20 Q       And was this after he had left the company?

21 A       I don't recall what you are referring to.

22                  MR. RICHARDS: I have nothing further.

23                  MR. SHANAHAN: I have nothing.

24

25

1 CROSS-EXAMINATION

2 BY MR. CHALENSKI:

3 Q Mr. Harrington, was there an occasion in 1971 when you  
4 were suspended by the company?

5 A Not that I recall. Suspended?

6 Q Relieved of duties.

7 A No, not that I recall.

8 Q For 30 days?

9 A I don't recall being suspended for 30 days. I don't  
10 understand what you mean.

11 THE COURT: Put a leading question  
12 so he can understand what you mean.

13 MR. CHALENSKI: Your Honor, may I  
14 refer to his file?

15 THE COURT: We'll take a short  
16 recess while Mr. Chalenski is looking for the file.

17 (Recess taken.)

18 (Trial resumes.)

19 THE COURT: All right, Mr. Chalenski.

20 BY MR. CHALENSKI:

21 Q Mr. Harrington, was there an incident involving a  
22 Mr. J. A. Betanti of IBM Corporation on or about  
23 November 12, '71?

24 A Mr. Betanti?

25 Q Yes.



1 A Not that I recall.

2 Q And you do not recall being suspended from passenger  
3 operations for 30 days?

4 A I was put on the mail for 30 days, but it was not really  
5 a suspension. I was still working.

6 Q I hand you Government Exhibit 44 for identification. Have  
7 you ever seen that document?

8 A This isn't a suspension per se. I was assigned to a  
9 mail, for a month.

10 THE COURT: Have you ever seen the  
11 document; that was the question.

12 THE WITNESS: Yes, I have.

13 BY MR. CHALENSKI:

14 Q Government Exhibit 45, have you ever seen that document?

15 A Yes.

16 Q You were suspended from passenger operations for 30  
17 days shortly prior to December 31st, 1971, is that  
18 correct?

19 A That's correct.

20 Q You were given recurrent training in all types of  
21 air travel for which you qualified, including a Beach  
22 C45 CG, a Piper PA21 and -23.

23 A Yes.

24 Q You had recurrent ground training, federal regulation 91  
25 and 135?

1 A Yes, I did.

2 Q An in-depth discussion was had between you and  
3 Defendant Bell regarding the fate of a problem and your  
4 outlook as a man and as a pilot?

5 A Yes.

6 Q What arose out of some incident involving your flying  
7 duties?

8 A Yes, it did.

9 Q And when did that incident take place?

10 A I don't recall the specific date. It was on a flight  
11 to Nashwood, New Hampshire.

12 Q And in some regard, did you not perform properly?

13 A There was a disagreement over this between myself and  
14 a passenger.

15 Q Would that involve going below an I.L.S. minimum?

16 A It was not an I.L.S., it is a non-precision approach,  
17 an A.D.F. approach.

18 Q But in any event, you went below some minimum which  
19 meant you got too close to the ground on an approach  
20 before you had clear sight of the runway, is that correct?

21 A This was what the passenger maintained, yes.

22 Q Well, apparently, your superiors considered it  
23 sufficiently substantiated to suspend you from passenger  
24 operations for 30 days, is that correct?

25 A They felt --



1 THE COURT: Do we have to go into  
2 every last detail about it?

3 MR. CHALENSKI: I'm sorry, your Honor.

4 Q Did you have any occasion to do any damage to an air-  
5 craft of defendant corporation?

6 A I'm sorry, I didn't understand the question.

7 Q Did you damage any aircraft owned by the defendant?

8 A Yes, I have.

9 Q When?

10 A Well, I don't agree with the statement that I damaged  
11 the aircraft. It was not intentional. I had an  
12 incident at Wilkes-Barre, Pennsylvania when I was  
13 assigned to mail duties.

14 Q When?

15 A I can't remember the specific date. It was in 1970, I  
16 believe, or '71, in August.

17 Q What was the general nature of the damage?

18 A There was damage to the wing flaps and propellers.

19 Q Substantial damage?

20 A It depends on what you refer to as substantial. The  
21 airplane was repaired and flown out of there.

22 Q Whether you did it intentionally or not, were you  
23 responsible for causing the damage?

24 A I was a pilot in command, yes.

25 Q Was the plane damaged at any other time when you were a



- 1 pilot in command?
- 2 A Not that I recall.
- 3 Q That's the only time?
- 4 A That's the only one I recall, yes.
- 5 Q When a Mr. Briggs testified on direct, he testified that
- 6 during the course of a check ride, you did not pass it
- 7 and that he had an understanding with you that you would
- 8 re-take it the next day. Did that occur?
- 9 A Yes, it did.
- 10 Q When did that occur?
- 11 A When I was in the initial training for the Metro.
- 12 Q About what time?
- 13 A Spring of '73, June, May or June.
- 14 Q '73?
- 15 A I believe so.
- 16 Q Could it have been '74?
- 17 A I don't recall specifically.
- 18 Q Now, you testified that on the morning of October 3rd,
- 19 1974, you recall flying with Copilot Louis, is that
- 20 correct?
- 21 A That's correct.
- 22 Q You specifically recall that or are you relying on the
- 23 schedule?
- 24 A I specifically recall that flight. It was rather
- 25 unusual.

1 Q The flight was unusual?

2 A Well, it was with the Governor, then present Governor  
3 of the state.

4 Q And you didn't fly with Josephson on that day at all?

5 A No, I did not.

6 Q You didn't fly with Josephson at all after the meeting  
7 of October 2nd, 1974?

8 A I was on a charter for the next couple of days, I was  
9 on an overnight.

10 Q Now, you testified that the statements by Defendant Bell  
11 which you read in the transcript which was shown to you,  
12 Government Exhibit 33A, were substantially identical  
13 to those which he made at the meeting of the captains.  
14 Now, Mr. Bell has already testified that he made  
15 statements in addition to that in the course of his  
16 direct testimony. Do you recall what statements, if  
17 any, the Defendant Bell made in addition to what is on  
18 that transcript?

19 A No, I don't recall any of them.

20 Q You don't recall anything else?

21 A As far as I can remember, they seemed identical to me.

22 Q Now, you said on one occasion you were opening a Metro  
23 door and that the door fell free on you. You said  
24 something about instantaneously as the snubber engaged,  
25 it instantaneously disengaged?



1 A The snubber is attached with a bolt on either end, and  
2 when the door was opening, it failed at that point and  
3 the door free fell from that point.

4 Q Were you holding the chain when it free fell?

5 A I had already determined that the door was being accepted  
6 by the hydraulic snubber and did not monitor it beyond  
7 that point and it free fell when it failed.

8 Q Was the chain in your hand at the time it free fell?

9 A No, it was beyond that point where you are monitoring  
10 the chain.

11 Q Well, you said the word instantaneously, if I recall.  
12 What was instantaneous?

13 A Well, it was a very short time after the door was  
14 accepted by the snubber, it just let go.

15 Q So what that instantaneous meant, you determined that the  
16 snubber was holding correctly and dropped the chain,  
17 then the door free fell?

18 A Well, at the time you determine that the hydraulic  
19 snubber --

20 THE COURT: Let's turn to something  
21 else, Mr. Chalenski. The issue isn't whether the  
22 door free fell, but whether there was an unfair  
23 labor practice here, a deliberate, intentional,  
24 unfair labor practice. Let's see if we can focus  
25 on this for a little while.



1 BY MR. CHALENSKI:

2 Q Mr. Harrington, you testified that at one of the  
3 meetings you attended, Mr. Calder answered a question  
4 regarding the ballots and he said that if it would help  
5 the person in attendance, they could turn their ballots  
6 over to Mr. Winston; is that correct?

7 A Yes.

8 Q What question was asked of Mr. Calder?

9 A One of the participants in the meeting had asked him a  
10 question of whether this practice should be pursued.

11 Q Did he mention it that Defendant Winston was asking for  
12 ballots?

13 A No, not at that time.

14 Q So somebody had to ask, can we give Winston our ballots?

15 A The question was asked, yes.

16 Q Do you recall speaking with a special agent, Charles  
17 Follen and John Lavan of the Federal Bureau of  
18 Investigation on January 23rd, 1975?

19 A Yes, I do.

20 Q Do you recall telling them that you said the union  
21 representative told the pilots to go along with Winston  
22 and the second ballot would be okay and that they would  
23 not expose themselves?

24 A I recall the conversation, yes, not the exact words.

25 Q You say you had some problems with Ira Josephson in his

1           availability for weekend duty?

2       A     Yes, I did.

3       Q     When did you report those to the Defendant Winston or  
4           Bell?

5       A     I discussed this with Ted when it seemed evident that  
6           I wasn't having any great success with Ira.

7       Q     When was the first time you did that?

8       A     I don't recall the exact time.

9       Q     What is your best recollection?

10      A     I don't recall.

11      Q     Spring of '74?

12      A     During the period that he worked with us.

13      Q     You don't recall any specific incidents then of  
14           mentioning that to Mr. Bell, just that you did it  
15           periodically?

16      A     That's right.

17      Q     How many times did Mr. Slough not be available for  
18           weekend duty?

19      A     Well, not -- I didn't have as big a problem with Bob  
20           as I had with Ira.

21      Q     Would it have been just two times?

22      A     I don't recall the exact number, but I do recall that  
23           we had some difficulty. He seemed to have several  
24           things to do in Rochester and he had difficulty arranging  
25           them.



1 Q It could have been two times, is that correct?

2 A Correct.

3 Q No other pilots were unavailable on weekends, two times  
4 in the space of about five or six months?

5 A Yes.

6 Q Now, is there a practice in the company that when one  
7 pilot leaves, he has no use for the uniform that he has  
8 obtained and either sells or gives that to a person who  
9 doesn't have the uniform?

10 A Occasionally, yes.

11 Q And there were several people leaving the company at  
12 about this time, is that not correct?

13 A During what time?

14 Q Excuse me, the winter of '74.

15 A Not an unusual number, I don't believe.

16 Q But there were people leaving?

17 A Yes.

18 Q And if Mr. Hummel could have obtained one of their  
19 uniforms, that would have been perfectly acceptable  
20 as far as the company was concerned?

21 A Yes.

22 MR. CHALENSKI: Thank you,  
23 Mr. Harrington.

24 THE COURT: Any redirect?

25 MR. RICHARDS: No, your Honor.



1 THE COURT: You are excused.

2 (Witness excused.)

3 MR. RICHARDS: I would like to call  
4 Art Warner.

5 ARTHUR WARNER, JR.,  
6 having been called as a witness in behalf of Defendant  
7 Winston, was duly sworn according to law and testified as  
8 follows:

9 DIRECT EXAMINATION

10 BY MR. RICHARDS:

11 Q Mr. Warner, where do you reside?

12 A At Box 3, Daleville Road, Binghamton, New York.

13 Q For whom are you employed?

14 A Commuter Airlines.

15 Q And for how long have you been in the employ of Commuter?

16 A Approximately 17 years.

17 Q And in what capacity have you been employed?

18 A As a mechanic, chief inspector and director of  
19 maintenance.

20 Q And what background or training have you had regarding  
21 the mechanics of aircrafts?

22 A From approximately 1937 as a helper and a cleanup man  
23 to the present day.

24 Q Now, have you been certified by the FAA?

25 A Yes, I have.

- 1 Q And what are those certifications?
- 2 A I have an A&P license with inspection authorization,  
3 a designating mechanic's examiner.
- 4 Q Are you qualified to work on various aircraft being  
5 used by Commuter?
- 6 A Yes, I am.
- 7 Q And does the certification by the FAA extend to  
8 mechanical work on these aircraft?
- 9 A It does.
- 10 Q Is your proficiency as a mechanic periodically reviewed  
11 by any governmental agency?
- 12 A Yes, it is.
- 13 Q And are you familiar with the Metro aircraft?
- 14 A Yes, I am.
- 15 Q And how long have you been working on Metro aircraft?
- 16 A Since the purchase, I believe it was in 1973.
- 17 Q And you are authorized by the FAA to do mechanical  
18 repairs on this Metro aircraft, is that correct?
- 19 A That is correct.
- 20 Q Do you have the final say as to whether or not an  
21 aircraft will be grounded or up in the air?
- 22 A I do.
- 23 Q And, nor can even Mr. Winston overrule your judgment?
- 24 A He cannot.
- 25 Q At my request, did you bring certain records from the



1 company?

2 A I didn't understand your question.

3 Q I'm sorry. Do you have certain records that you have  
4 brought at my request?

5 A (Witness handing.)

6 Q Mr. Warner, I would like to refer you back to December  
7 of 1974. Do you recall receiving word that the snubber  
8 handle of a Metro aircraft had been broken?

9 A I do.

10 Q Now, how did you receive word of this damage?

11 A I received it on the field telephone.

12 Q Now, does a field telephone connectup with the radio  
13 of the Metro aircraft?

14 A It does not.

15 Q Do you recall with whom you spoke?

16 A No, I do not. It was a member of the crew.

17 Q Do you recall what report was given to you concerning  
18 this aircraft?

19 A It was stated they had a broken snubber handle, would I  
20 bring a snubber handle over and replace it so they  
21 could continue their flight.

22 Q All right. Now, was there any mention in this  
23 conversation as to the door having free fallen?

24 A None.

25 Q Did you thereupon instruct anyone to undertake the



1 repair of the aircraft?

2 A I called my shop foreman in and instructed him to remove  
3 a handle from a grounded aircraft that was in our hangar  
4 for other work, take the handle over and install it.

5 Q And who was the shop foreman?

6 A Fred Mayes.

7 Q Mr. Warner, the identification label has fallen off,  
8 but do you identify, or do you recognize that particular  
9 snubber handle?

10 A I do.

11 Q And did you subsequently have an opportunity to look at  
12 that snubber handle after the work was done?

13 A Yes, I did.

14 Q And is that the handle that was taken from the Metro  
15 aircraft?

16 A Yes, it is.

17 Q Now, did you thereupon perform certain tests on that  
18 handle?

19 A I did.

20 Q And were you in the company of the FAA officials?

21 A Yes, I was.

22 Q And were you aware of -- advised as to the manner in  
23 which that handle had been damaged?

24 A No.

25 Q You were not?

- 1 A I was not.
- 2 Q Now, did you subsequently have an opportunity to inspect
- 3 the snubber to which that handle was attached?
- 4 A Yes, I did.
- 5 Q And did you perform any tests upon that snubber?
- 6 A Yes, I did.
- 7 Q Did you determine whether the snubber was functioning
- 8 properly?
- 9 A It was in normal operation.
- 10 Q And following your test of that snubber, was it re-
- 11 used in any aircraft?
- 12 A It was re-installed on the same aircraft.
- 13 Q And did you, at my request, trace the history of that
- 14 snubber on the aircraft?
- 15 A I did.
- 16 Q Now, Mr. Warner, I show you Defendant's Exhibit Q
- 17 marked for identification and ask you if you can
- 18 identify that document.
- 19 A Yes, I can.
- 20 Q And what is that document?
- 21 A It is a history of the door snubber on aircraft 5304
- 22 that I prepared from log book entries and worksheet
- 23 reports.
- 24 Q All right. Now, was that snubber subsequently
- 25 installed on another aircraft?



1 A No.

2 Q Was that snubber subsequently used on any other aircraft?

3 A No.

4 Q What is the history of that snubber?

5 A As I stated here on 4/1/74, on my work order 406, we  
6 installed a new type door snubber on the main cabin  
7 door, drop check good. On 12/10/74, during our repair  
8 of the damaged door, I had occasion to inspect this  
9 door snubber and did a drop check test on it and it  
10 checked normal and I reinstalled it.

11 Q Did you reinstall it in the same aircraft?

12 A Same aircraft.

13 Q Then what was done?

14 A At a later date, 8/4/75, on work order 1084, I removed  
15 and replaced the door snubber because of a leak.

16 Q Okay. Now, would you briefly explain to the jury what  
17 you found in regards to the door when the aircraft was  
18 brought into the maintenance hangar?

19 A When it was brought into the maintenance hangar, I  
20 found the door frame badly bent and distorted with  
21 severe damage.

22 Q And did you undertake repairs of that door frame?

23 A Yes, I did.

24 Q And do you recall how long it took to perform those  
25 repairs?



1 A Three days.

2 Q And do you know how long the aircraft was grounded during  
3 that period of time?

4 A No, I do not.

5 Q Now, Mr. Warner, did you, at my request, determine the  
6 force generated by a free falling door from the Metro  
7 at various stages?

8 A Yes, I did.

9 Q Would you explain to the Court and jury the steps you  
10 took to perform these tests?

11 A I will have to refer to my notes.

12 Q Here, I'm sorry.

13 A The note is not here. I think I have a penciled note  
14 here on it.

15 Q First would you explain to the Court and jury what  
16 steps you took to perform the test?

17 A All right. The steps that we took on this door to  
18 ascertain the different positions was, of course, to  
19 close the door at this point. We cracked the door  
20 three inches from its open position attaching a scale  
21 to the attached point of the door chain. At this point,  
22 with the door open three inches, the weight on that  
23 scale was --

24 MR. CHALENSKI: Your Honor, I object  
25 to the testimony on this first, that the position of

1 a stationary door is not at all relevant to the force  
2 of a moving door.

3 Second, they don't show the conditions  
4 of the test that the snubber was installed or that  
5 in any way the conditions that the door would have  
6 been in when Mr. Sholl released it.

7 THE COURT: Sustained.

8 THE COURT: Sustained.

9 BY MR. RICHARDS:

10 Q Mr. Warner, at the time you performed the test on this  
11 Metro door, was a snubber system installed?

12 A Yes, it was.

13 Q And was it functioning?

14 A Yes, it was.

15 Q And did you determine at certain positions that that  
16 door, the pounds of force being exerted on a person  
17 holding the chain from inside the aircraft?

18 A Yes, I did.

19 Q Now, would you continue and describe to us what was the  
20 total pounds force exerted at the point where it was  
21 three inches open?

22 MR. CHALENSKI: Your Honor, this  
23 has already been testified to that the snubber was  
24 not functioning. The test as Mr. Warner just  
25 testified though is when it was.



1 THE COURT: It is not the same  
2 conditions.

3 BY MR. RICHARDS:

4 Q Mr. Warner, at what point does the snubber system engage?

5 A Approximately 36 inches of travel on the door.

6 Q And so the door is open only three inches, that snubber  
7 system does not engage?

8 A That's correct.

9 Q Would you proceed to tell us the pounds force at a three-  
10 inch point?

11 A At the three-inch point there was a five-pound pull on  
12 the chain.

13 Q Did you take another point?

14 A I did at 36 inches.

15 Q Now, 36 inches, the snubber system is engaged, is that  
16 correct?

17 A This is the point at which it starts to engage.

18 Q All right. And what was the total pounds force at that  
19 point?

20 A 37 pounds.

21 Q All right. Now, that is the total pounds force being  
22 exerted on a person holding the chain?

23 A That's correct.

24 Q All right. Now, based upon your experience with these  
25 Metro doors, in your opinion, do you feel that a



1 person holding that guard chain when the door of the  
2 Metro is free falling could be propelled out the door?

3 MR. CHALENSKI: Objection, your Honor.

4 THE COURT: Sustained.

5 MR. RICHARDS: Your Honor, there has  
6 been earlier testimony of a pilot that he let go of  
7 the chain because the door is free falling and would  
8 propel him out of the aircraft. I feel this witness  
9 has been qualified to address himself to that  
10 testimony.

11 THE COURT: I thought you did. That  
12 is probably why you introduced that evidence. But  
13 I don't think he is, and that is why I overruled you.

14 BY MR. RICHARDS:

15 Q Have you had occasion, Mr. Warner, to open that Metro  
16 door?

17 A Yes, I have.

18 Q And how frequently?

19 A Many times.

20 Q Have you had occasion to open the door without the  
21 snubber system functioning?

22 A I have.

23 Q Have you opened the door in using the chain?

24 A Many times.

25 Q Have you on occasion allowed the door to free fall with

1 the use of the chain?

2 A Yes.

3 Q Now, what would your answer be in regards to my earlier  
4 question as to whether or not a person, if holding that  
5 chain while the door was free falling, would he be  
6 propelled out the door?

7 MR. CHALENSKI: Same objection, your  
8 Honor.

9 THE COURT: Sustained.

10 How much did this door weigh?

11 THE WITNESS: I cannot answer your  
12 question.

13 THE COURT: You never weighed it?

14 THE WITNESS: I never weighed the door.

15 BY MR. RICHARDS:

16 Q And why can't you answer the question, Mr. Warner, as  
17 to why you can't weigh the door?

18 A Never took it off and weighed it.

19 Q And the pounds force that we are talking about isn't the  
20 weight of the door, but rather of the force being caused  
21 by a person holding it from the inside, correct?

22 A Correct.

23 Q And that is the only measure of weight you can determine  
24 is that correct?

25 A That's correct.



1 THE COURT: Is this a hatch type door  
2 that fits into the side of the plane like a cork?

3 THE WITNESS: Yes, it does.

4 THE COURT: How far is the bottom from  
5 the ground when a plane is at rest?

6 THE WITNESS: With the door open?

7 THE COURT: The bottom of the door.  
8 Whether it is opened or closed, the bottom doesn't  
9 change.

10 THE WITNESS: With the door open,  
11 approximately one foot.

12 THE COURT: Where is it, in the  
13 tail of a plane?

14 THE WITNESS: It is in the left side  
15 of the nose.

16 THE COURT: And that is only a foot  
17 from the ground?

18 THE WITNESS: When the door is open.

19 THE COURT: Where is it when it is  
20 closed? How high is the bottom of the door off the  
21 ground?

22 THE WITNESS: I would have to measure it.

23 THE COURT: Well, can't you estimate?

24 THE WITNESS: An educated guess would  
25 be four feet.



1 THE COURT: A man can reach in there  
2 easily? If the door is open, can you reach in the door  
3 standing on the ground?

4 THE WITNESS: Yes, you can.

5 MR. RICHARDS: Thank you, your Honor.

6 BY MR. RICHARDS:

7 Q Mr. Warner, I show you Defendant's Exhibit S marked for  
8 identification and ask you if you can identify that  
9 photograph.

10 A It is a photograph of a Metro liner.

11 Q Is this the same type of Metro aircraft we have been  
12 talking about?

13 A Yes, it is.

14 Q And does it show the door which is in question here?

15 A It does.

16 Q MR. RICHARDS: I would like to enter  
17 this as Defendant's Exhibit S.

18 MR. CHALENSKI: No objection.

19 THE COURT: Received.

20 (Defendant's Exhibit S received in  
21 evidence.)

22 BY MR. RICHARDS:

23 Q Mr. Warner, I show you Defendant's Exhibit R marked  
24 for identification and ask you if you can identify that.

25 A This is the work order that was written on the repair

1 of the door.

2 Q All right. And are those documents kept in the ordinary  
3 course of business by Commuter Airlines?

4 A Yes, they are.

5 Q And are those documents kept in your maintenance  
6 department?

7 A Yes, they are.

8 MR. RICHARDS: I would like to move  
9 Defendant's Exhibit R into evidence.

10 THE COURT: Is this doorway tapered?

11 THE WITNESS: The doorway is not tapered,  
12 but the door does follow the curvature of the fuselage.

13 THE COURT: There is no taper there  
14 so that the inside of the door is larger than the  
15 outside?

16 THE WITNESS: Yes, there is, because  
17 of the curve of the aircraft.

18 THE COURT: And this is the door that  
19 passengers use to enter and leave the plane?

20 THE WITNESS: That's correct.

21 THE COURT: How high are the steps  
22 leading to the door?

23 THE WITNESS: The first step?

24 THE COURT: From the ground to the door,  
25 how high are the steps? There is nothing complicated



1 about that question, I don't think. Maybe you do.  
2 If you don't understand it, I will reframe it.

3 THE WITNESS: I would have to give  
4 you, again, an educated guess without measuring it,  
5 but I would say it's probably 14 inches.

6 THE COURT: 14 inches high, the steps?

7 THE WITNESS: That's correct.

8 THE COURT: What is it, just one step?

9 THE WITNESS: That's the first step.

10 THE COURT: Where is the second?

11 BY MR. RICHARDS:

12 Q Mr. Warner, I show you Defendant's Exhibit T marked  
13 for identification and ask if you can identify that.

14 A Well, what is a Metro aircraft and it looks like the  
15 55 Mike.

16 Q That is a Metro aircraft with this particular door open?

17 A Yes, it is.

18 MR. RICHARDS: I will also move  
19 Defendant's Exhibit T into evidence.

20 MR. CHALENSKI: Your Honor, I have no  
21 objection to Exhibit T. With reference to Exhibit R,  
22 there is a letter attached to that which I oppose  
23 as being prejudicial.

24 MR. RICHARDS: I would agree to the  
25 removal of that letter.



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THE COURT: Received.

(Defendant's Exhibits R and T  
received in evidence.)

THE COURT: We will recess now until  
tomorrow morning at 10 o'clock.

(Whereupon, proceedings were adjourned  
to June 11th, 1976 at 10 a.m.)

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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UNITED STATES OF AMERICA,	:	
Plaintiff-Appellee,	:	Docket No.
v.	:	76-1436
JERRY WINSTON, BROOME COUNTY	:	CERTIFICATE
AVIATION, INC., COMMUTER AIRLINES	:	<u>OF SERVICE</u>
INC., and THEODORE (TED) BELL,	:	
Defendants-Appellants.	:	

- - - - -x

STATE OF NEW YORK     )  
                              : ss.:  
COUNTY OF NEW YORK    )

MARVIN WEXLER, being sworn, states:

I am an attorney associated with PAUL, WEISS,  
RIFKIND, WHARTON & GARRISON, attorneys for appellants herein.  
On March 24, 1977 a clerk employed by my firm personally  
served two copies of the attached Brief of the Defendants-  
Appellants, containing revised record references in accordance  
with Rules 30(c) and 31(b) of the Federal Rules of Appellate  
Procedure and in accordance with a Stipulation concerning the  
submission of a deferred Appendix, and also served two copies  
of the deferred Appendix (one copy of the exhibit volume) on  
Paul V. French, Esq., United States Attorney for the Northern



District of New York, Office of the United States Attorney  
for the Northern District of New York, United States Court  
House and Federal Building, 100 South Clinton Street, Syracuse,  
New York 13202.

*Marvin Wexler*

MARVIN WEXLER

Sworn to before me this  
24th day of March, 1977.

*Antoinette Scaffidi*

ANTOINETTE SCAFFIDI  
Notary Public, State of New York  
No. 41-8779300 Queens County  
Certificate filed in New York County  
Commission Expires March 30, 1978





